

**MINUTES OF THE MEETING OF THE CITY COUNCIL**

Wichita, Kansas, September 14, 2004  
Tuesday, 9:06 A.M.

The City Council met in regular session with Vice-Mayor Brewer in the Chair. Council Members Fearey, Gray, Lambke, Martz, Schlapp; present. Mayor absent with prior notice.

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

Vice-Mayor Brewer requested a moment of silence.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

The Minutes of the August 31, 2004, regular meeting and the September 8, 2004, Special Meeting were approved 6 to 0, (Mayans absent).

**AWARDS AND PRESENTATIONS:**

RECOGNITION Vice-Mayor Brewer recognized Caroline Bruce and her family and presented Caroline Bruce with a key to the City.

PROCLAMATIONS Proclamations previously approved were presented.

Council Member Fearey Council Member Fearey requested to take up an off-agenda Item naming a public facility.

**OFF AGENDA ITEM**

Motion-- Brewer moved that the City Council consider an off-agenda Item. Motion carried 6 to 0, Mayans, -- carried absent.

**OFF AGENDA ITEM NAMING CITYARTS BUILDING.****RESOLUTION NO. 04-643****A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA NAMING THE CITYARTS BUILDING IN HONOR OF CHRIS CHERCHES**

WHEREAS, the City of Wichita has constructed a new building at 334 N. Mead in Old Town to house the CityArts program; and

WHEREAS, it is the policy of the City of Wichita to name public facilities in accordance with their intended use and, where appropriate, to recognize distinguished citizens by naming public facilities in their memory; and

WHEREAS, Chris Cherches served with great distinction for eighteen years from 1985 to 2003 as the City Manager of the City of Wichita, prior to his untimely death on August 26, 2004; and

WHEREAS, Chris Cherches has many accomplishments in his service to the community and its citizens during his tenure as City Manager, including activities illustrating his interest and support of the beautification of the City, as shown by the development of the Old Town entertainment district, redevelopment of Downtown, the Douglas Streetscape, establishment of a reforestation program, City beautification and landscaping, development of Museums on the River and the River Corridor project,

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 388

the inclusion of public art in capital improvement projects, and the placement of public art throughout the City; and

WHEREAS, Chris Cherches was dedicated to and instrumental in the development of the City's arts programming, arts council, and in the construction of the new CityArts building; and

WHEREAS, Chris Cherches' family has been contacted and has indicated that this naming would be a very appropriate tribute to his memory; and

WHEREAS, it is appropriate to name the CityArts buildings in the memory of Chris Cherches and the naming is consistent with the provisions of the City's naming policy;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA THAT:

1. The CityArts building at 334 N. Mead in Old Town, be named in honor and tribute to the memory of Chris Cherches and his service to the City of Wichita, and that the formal naming process be waived; and
2. That an appropriate signage, plaque, and picture be authorized to be placed on and within CityArts and a dedication arranged at an appropriate time.

Motion--

Fearey moved that the City Council adopt the resolution naming the new CityArts building, the Chris Cherches CityArts building and that the Council authorize a plaque to be struck to, be placed on and within the CityArts building for all to see. Motion carried 6 to 0, (Mayans absent).

-- carried

## **PUBLIC AGENDA:**

Mark S. Gietzen

Mark S. Gietzen-Damages to Homes near the 55<sup>th</sup> Street South Bridge Reconstruction Site.

Mr. Gietzen stated that in the year 2000, the City of Wichita contracted with Dondlinger and Sons Construction Company to rebuild a bridge at 55<sup>th</sup> street near Mosley. During the construction process Dondlinger used some equipment not intended to be used in a populated area and in doing so they damaged four homes, one that was his. Stated that during the reconstruction process they informed the City that they were experiencing these damages as they were occurring and was told by the City of Wichita that they would be compensated for any damages by the insurance company carried by Dondlinger. When the project was finished the insurance company drug their feet and it took almost a year for them to honor a claim and in his case he had \$96,000.00 worth of damage to his home and the only two parts of the claim that they were willing to pay for was \$700.00 in waterlines that had shook down from their anchors in the ceiling and for heat runs that had shook down from their anchors in the ceiling. Stated that he did not accept the \$700.00 offer to settle as full payment for \$96,000.00 worth of damage. Stated the attempted to go through the legal process of making a claim against their insurance company and was unsuccessful in doing so. Stated that Dondlinger has not fixed his property and has acted in terrible faith. Stated that he feels that the City of Wichita owes them the courtesy to at least coming down and looking at the damage, make an appraisal and coming up with a resolution for them.

Vice-Mayor Brewer

Vice-Mayor Brewer asked City Manger George Kolb and Director of Law, Gary Rebenstorf , to get a report on this Item and give the Council a report.

Mike Tyson

Mike Tyson-2932 east 21<sup>st</sup>. Street North in Relationship to the New Site for Fire Station 10.

Mr. Tyson stated that he owns the property located at 2932 east 21<sup>st</sup> Street North, which is adjacent to Fire Station 10 and was under the impression that the property would be purchased by the City of Wichita in relationship with the Fire Station. Stated that he has since been told that the City Council has made a decision that they do not need this particular parcel of land but would still like to meet with the City Council to prevent some unforeseen problems that could occur in the future relationship to his property in this area. Stated that the name of his property is Whole Truth Tabernacle Incorporated,

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 389

which is a church located on this property and they are planning on expanding their existing property as well as purchasing the adjacent property to the west, which is currently for sale. They want to expand on this property to build a bigger sanctuary and possibly some other structures. The problems that he foresees down the road are that they are a very lively church in a very small building and you can hear the services before you get to the building, and the sleeping quarters at the fire station will be located right beside his building, which could cause some problems. Stated that they have services three times a week and also schedule revivals and tent meetings that take place outside on his property. Stated that these are things that the City Council needs to consider. His intent to selling the property is to get enough revenue to start a reading program and mentoring program for youngsters in the northeast Wichita area.

Vice Mayor Brewer

Vice-Mayor Brewer asked the City Manager to visit with Mr. Tyson regarding his property.

## CONSENT AGENDA

Motion--  
-- carried

Brewer moved that the Consent Agenda be approved as consensus Items. Motion carried 6 to 0, (Mayans absent).

## **BOARD OF BIDS**

### **REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED SEPTEMBER 13, 2004.**

Bids were opened September 3, and September 10, 2004, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

Third Street water main improvements - along 3rd Street from the Little Arkansas River to Santa Fe. (448-89816/634030/773201) Traffic to be maintained during construction using flagpersons and barricades. (District VI)

Wildcat Construction - \$1,672,922.00

2004 contract maintenance area concrete street repairs Phase 4 - north of Pawnee, east of West Street. (472-83915/132716/) Traffic to be maintained during construction using flagpersons and barricades. (Districts III, IV)

Ferguson Paving - \$325,500.00 (Engineer's estimate)

Lateral 371 Four Mile Creek Sewer to serve Savanna at Castle Rock Ranch 10th Addition - north of 13th Street North, west of 143rd Street East. (468- 83845/744071 /480759) Does not affect existing traffic. (District II)

Dondlinger & Sons - \$65,942.00

Lateral 1, Main 6, Cowskin Interceptor Sewer to serve Turkey Creek Addition - north of Pawnee, west of 119th Street West. (468-83818/744079/480767) Does not affect existing traffic. (District V)

Nowak Construction - \$126,720.49

Water distribution system to serve Turkey Creek Addition - north of Pawnee, west of 119th Street West. (448-89961/735213/470883) Does not affect existing traffic. (District V)

Mies Construction - \$68,695.00

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 390

Water distribution system to serve Savanna at Castle Rock Ranch 10th Addition - north of 13th Street North, west of 143rd Street East. (448-89985/735208/470878) Does not affect existing traffic. (District II)

Mies Construction - \$25,193.00

Linwood Park Tennis and Basketball Court Rehabilitation - north of Mt. Vernon, and east of Hydraulic. (472-84046/785041/394173) Does not affect existing traffic. (District I)

Trans Texas Tennis, Inc. - \$198,760.26

2004-2005 CDBG; street, curb, gutter and sidewalk improvements (Asphalt Repairs) - north of 31st Street South, east of Hillside. (472-83904/602551 /800402 /010111) Traffic shall be maintained during construction using flagpersons and barricades. (District III)

Ritchie Paving - \$177,790.00

13th Street North to serve Liberty Park 2nd and Copper Gate Estates Additions - south of 13th Street North, east and west of 135th Street West) (472-83880/765855 /490966) 13th Street North shall be closed to thru traffic during construction. (District V)

Ritchie Paving - \$60,682.85

2004-2005 Traffic Signalization Program, Phase II: Install traffic signals at 37th Street North & Rock Road (472-84066/706911/204377) Traffic to be maintained during construction using flagpersons and barricades. (District II)

Sims Electric Service - \$95,895.00

2004-2005 Traffic Signalization Program, Phase II: Install traffic signals at 29th Street North & Oliver (472-84067/706911/204377) Traffic to be maintained during construction using flagpersons and barricades. (District I)

Sims Electric Service - \$68,600.00

2004 Contract Maintenance Area Concrete Street Repairs, Phase 5 - north of Maple, east of West Street. (472-83916/132716/) Traffic to be maintained during construction using flagpersons and barricades. (District VI)

Barkley Construction - \$351,750.00 (Engineer's estimate)

Manchester from the north line of 37th Street North to the north line of Lot 3, Block 3; Waterside from the west line of Manchester to the west line of Lot 11, Block 4; Waterside Courts (3) adjacent to Lots 1 through 29, Block 1; Sidewalk along the north side of Waterside from Manchester to the west line of Lot 11, Block 4, along the east side of Manchester from the north line of 37th Street North to Waterside and the west side of Manchester from Waterside to the north line of Lot 33, Block 4 to serve Prairie Pointe Addition - north of 37th Street North, west of Maize. (472-84023/765897/490010) Does not affect existing traffic. (District V)

Ritchie Paving - \$315,496.75

Storm Water Drain #231 to serve Prairie Pointe Addition - north of 37th Street North, west of Maize. (468-83810/751376/485267) Does not affect existing traffic. (District V)

Pearson Excavating - \$307,132.80

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 391

Lateral 500 Southwest Interceptor Sewer to serve Shady Ridge Addition - south of Central, east of Ridge. (468-83837/744068/480756) Does not affect existing traffic. (District V)

Mies Construction - \$34,625.00

Lateral 35 Cowskin Interceptor Sewer to serve Shadow Woods Addition - north of Maple, west of 135th Street West. (468-83596/744080/480768) Does not affect existing traffic. (District V)

Nowak Construction - \$205,624.67

Lateral 447 Southwest Interceptor Sewer to serve Village Charters 2nd Addition - north of 21st Street North, east of Tyler. (468-83089/744077/480765) Does not affect existing traffic. (District V)

Dondlinger & Sons - \$19,980.00

Storm Water Sewer #608 to serve Evergreen and Newmarket Square Additions - north of 21st Street North, west of Maize. (468-83827/751373/485264) Does not affect existing traffic. (District V)

Dondlinger & Sons - \$128,652.00

2004 Sanitary Sewer Reconstruction, Phase 11 - north of MacArthur, between Meridian and Woodlawn. (468-83891/620416/664536) Traffic to be maintained during construction using flagpersons and barricades. (Districts II, III, IV, VI)

Wildcat Construction - \$205,998.00

Motion--

Brewer moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 6 to 0, (Mayans absent).

-- carried

HOUSING SERVICES DEPARTMENT/PUBLIC HOUSING DIVISION: Exterior Painting of Buildings, Fence.

Aaron & Page Painting Inc. - \$29,400.00 (Group 1/total net bid)

WATER & SEWER DEPARTMENT/CUSTOMER SERVICE DIVISION: Mobile Collection Kit for AMR System.

Itron Inc. - \$33,300.00\* (Group 1/total net bid)

\*With trade-in

PARK & RECREATION DEPARTMENT/RECREATION DIVISION: Rubberized Safety Playground Surfacing.

Cunningham Associates, Inc. - \$70,982.10 (Group 1/total net bid)

Motion--

Brewer moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 6 to 0, (Mayans absent).

--carried

CMBS

## APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

New Operator

2004

(Consumption off Premises)

Amy Prince

K & O Quickshop #29

11931 West Central

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 392

<u>New Establishment</u>	<u>2004</u>	<u>(Consumption off Premises)</u>
Jack N. Reif	Target Store T-1944	10800 East 21st Street North
Jack N. Reif	Target Store T-1945	2727 Maize Road

Special Events     October 15, 2004 & November 19, 2004

Justin Blevins	Smooth Time Promotions Boxing Event	Indian Center, 650 North Seneca
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Motion--  
--carried     Brewer moved that the licenses subject to Staff review and approval be approved. Motion carried 6 to 0, (Mayans absent).

**PRELIMINARY ESTS. PRELIMINARY ESTIMATES:**

- a)        13th Street Bridge over Cowskin Creek, Phase 1 - 13th Street approx. 1/4 mile east of 119th Street West. (87N-0230-01/472-83851/715697/244113) 13th Street Bridge will be closed to thru traffic. (District V) - \$2,886,159
- b)        2004 Sanitary Sewer Reconstruction, Phase 10 - north of 31st Street South, between Meridian and 143rd Street East. (468-83866/620415/664535) Traffic shall be maintained during construction using flagpersons and barricades. (Districts I, II, III, IV) - \$300,000
- c)        Lateral 1, Main 7 Northwest Interceptor Sewer to serve Prairie Pointe Addition - north of 37th Street North, west of Maize. (468-83807/744074/480762) Does not affect existing traffic. (District V) - \$255,600
- d)        Water distribution system to serve Prairie Pointe Addition - north of 37th Street North, west of Maize. (448-89949/735210/470880) Does not affect existing traffic. (District V) - \$231,000
- e)        Water distribution system, Phase 1 to serve Prairie Pointe Addition - north of 37th Street North, west of Maize. (448-89950/735211/470881) Does not affect existing traffic. (District V) - \$107,800
- f)        Water distribution system to serve Kiser West Addition - on 13th Street North, west of Greenwich. (448-89955/735197/470867) Does not affect existing traffic. (District II) - \$59,600
- g)        127th Street East, from the north line of Boxthorn to the north line of The Fairmont to serve The Fairmont Addition - north of 21st Street North, west of 127th Street East. (472-83614/765872/490983) 127th Street East to be closed to thru traffic during construction. (District IV) - \$138,000

Motion--carried     Brewer moved that the Preliminary Estimates be received and filed. Motion carried 6 to 0, (Mayans absent).

**SHADY RIDGE ADD. CONSTRUCT A SANITARY SEWER FOR SHADY RIDGE ADDITION, SOUTH OF CENTRAL, EAST OF RIDGE. (DISTRICT V)**

Agenda Report No. 04-0856

On June 8, 2004, the City Council approved a Petition to construct a sanitary sewer for Shady Ridge Addition. The Petition contained an error in the amount budgeted for the project. The developer has submitted a new Petition with an increased budget. The signatures on the new Petition represent 100% of the improvement district.

The project will provide sanitary sewer improvements for a new residential development located south of Central, east of Ridge.

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 393

The existing Petition totals \$31,000. The new Petition totals \$50,653. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--  
-- carried

Brewer moved that the Petition be approved and the Resolution adopted. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. 04-460

A Resolution amending Resolution No.04-309 pertaining to constructing Lateral 500, Southwest Interceptor Sewer, 468-83837 (south of Central, east of Ridge), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## **VILLAGE CHARTER CONSTRUCT A SANITARY SEWER FOR VILLAGE CHARTERS 2<sup>ND</sup> ADDITION, NORTH OF 21<sup>ST</sup>, EAST OF TYLER. (DISTRICT V)**

Agenda Report No. 04-0857

On April 4, 2000, the City Council approved a Petition to construct a sanitary sewer for Village Charters 2nd Addition. Based on recent bid prices, it is doubtful that a construction contract can be awarded within the budget set by the Petition. The developer has submitted a new Petition with an increased budget. The signatures on the new Petition represent 100% of the improvement district.

The project will provide sanitary sewer improvements for a new commercial development located north of 21st, east of Tyler.

The existing Petition totals \$14,200. The new Petition totals \$32,300. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--  
-- carried

Brewer moved that the Petition be approved and the Resolution adopted. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. 04-461

A Resolution amending Resolution No. 00-142 pertaining to constructing Lateral 447, Southwest Interceptor Sewer, 468-83089 (north of 21st Street, east of Tyler), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## **EDWARD'S GARDEN CONSTRUCT A SANITARY SEWER TO SERVE LOTS 1-6, BLOCK B, EDWARD'S GARDENS ADDITION, WEST OF ARKANSAS AVENUE, NORTH OF 41<sup>ST</sup> STREET NORTH. (DISTRICT VI)**

Agenda Report No. 04-0858

The Petition has been signed by the President of the Wichita Public Schools Board, representing 100% of the improvement district.

The project will provide sanitary sewer service to Earhart Elementary School.

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 394

The Petition totals \$255,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--  
-- carried

Brewer moved that the Petition be approved and the Resolution adopted. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. 04-462

Resolution of findings of advisability and Resolution authorizing construction of Lateral 109, Sanitary Sewer #23, 468-83876 (west of Arkansas, north of 41st Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## PRAIRIE POINTE

### **CONSTRUCT A STORM WATER DRAIN FOR PRAIRIE POINTE ADDITION, NORTH OF 37<sup>TH</sup> STREET NORTH, WEST OF MAIZE. (DISTRICT V)**

Agenda Report No. 04-0859

On May 4, 2004, the City Council approved a Petition to construct a storm water drain for Prairie Pointe Addition. Based on recent bid prices, it is doubtful that a construction contract can be awarded within the budget set by the Petition. The developer has submitted a new Petition with an increased budget. The signatures on the new Petition represent 100% of the improvement district.

The project will provide drainage improvements for a new residential development located north of 37th Street North, west of Maize.

The existing Petition totals \$321,400. The new Petition totals \$575,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--  
-- carried

Brewer moved that the Petition be approved and the Resolution adopted. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. 04-463

A Resolution amending Resolution No. 04-220 pertaining to constructing Storm Water Drain No. 231, 468-83810 (north of 37th Street North, west of Maize), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## 37<sup>th</sup> STREET NORTH **PAVE 37<sup>TH</sup> STREET NORTH, FROM MAIZE TO MANCHESTER. (DISTRICT V)**

Agenda Report No. 04-0860

On July 20, 2004, the City Council approved a Petition to pave 37th Street North, from Maize to Manchester. Based on recent bid prices, it is doubtful that a construction contract can be awarded within the budget set by the Petition. The developer has submitted a new Petition with an increased budget. The signatures on the new Petition represent 100% of the improvement district.

The project will provide paved access to a new residential development located north of 37th Street



# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 395

North, west of Maize.

The existing Petition totals \$31,000. The new Petition totals \$52,800. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--  
-- carried

Brewer moved that the Petition be approved and the Resolution adopted. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. 04-464

A Resolution amending Resolution No. 04-374 pertaining to constructing asphalt mat paving improvements on 37th Street North, west of Maize Road to Manchester Road, 472-84044 (north of 37th Street North, west of Maize), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## STREET CLOSURES CONSIDERATION OF STREET CLOSURES/USES.

Agenda Report No. 04-0918

In accordance with the Special Events Procedure, event sponsors are to notify adjacent property owners and coordinate arrangements with Staff, subject to final approval by the City Council.

The following street closure requests have been submitted:

Gran Fiesta Patria – September 16, 17, 18, & 19  
Market from 21st to mid-block  
Alleyway between Broadway & Market – blocked midway  
24 hours on September 17-19  
21st Street from Park Place to Broadway  
Noon to 10:30 p.m.  
One lane of Market from 20th to 21st (open to residents)  
24 hours on September 17-19

SW Village Neighborhood Association Annual Picnic and Fundraiser –September 18,  
27th Street from S. St. Paul to S. Richmond  
1:00 p.m. – 5:00 p.m.

City Arts Ribbon Cutting Ceremony – October 2  
Mead from 2nd to 3rd Street  
9:00 a.m. - Noon

Police security is arranged to remove blockades as necessary to allow emergency vehicle access during entire designated time period

Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Motion--

Brewer moved that the request subject to: (1) Event sponsors notifying every property and/or business adjoining any portion of the closed street; (2) Coordination of event arrangements with City Staff; (3) Hiring off-duty public safety officers as required by the Police Department; (4) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; (5) Submitting a Certificate of Insurance evidencing general liability insurance which covers the event and its related activities, including the naming of the City as an additional insured with respect to the event's use of the closed City streets be approved. Motion carried 6 to 0, (Mayans absent).

--carried

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 396

**SOUTHERN RIDGE      RESPREAD ASSESSMENTS: SOUTHERN RIDGE ADDITION - SOUTH OF PAWNEE, WEST OF MAIZE. (DISTRICT IV)**

Agenda Report No. 04-0861

The landowners, Maize Road, L.L.C.; Robl Construction, Inc.; Moeder Construction, L.L.C.; Timothy & Kari Scheer; Leonard B. & Susan E. Denton; Richard & Karen Murray; Seth & Jamie Page; Terry & Carol Benge; Nathan L. & Susan M. Strickbine; Jennifer Wright; Walter Giddens; Lawrence D. Garcia; Othel M. Garcia; Steven Higgins; Warren White & April Poulailon; and Dale Perreault, have submitted an Agreement to respread special assessments within Southern Ridge Addition.

The land was originally included in an improvement district for a public sanitary sewer improvement project. The purpose of the Agreement is to respread special assessments on a fractional basis for each lot, therefore, distributing the cost of the improvement more fairly. Without the Agreement, a portion of the assessments will remain spread on a square foot basis.

There is no cost to the City.

Motion--      Brewer moved that the Agreement be approved and the necessary signatures authorized. Motion  
--carried      carried 6 to 0, (Mayans absent).

**WILSON ESTATES      RESPREAD ASSESSMENTS: COMMON AREAS AND FACILITIES OF CLUBHOUSE VILLAS AT WILSON ESTATES CONDOMINIUM, BEING LOT 5, BLOCK 1, LEGACY PARK WILSON ESTATES ADDITION AND LOT 1, BLOCK 1, WILSON ESTATES MEDICAL PARK ADDITION – SOUTH OF 21ST STREET NORTH, WEST OF WEBB ROAD. (DISTRICT II)**

Agenda Report No .04-0862

The landowners, Wilson Residential Company, L.L.C. (Lot 1, Block 1, Wilson Estates Medical Park Addition) and CVC Wichita Associates, L.L.C. (Common Areas & Facilities of Clubhouse Villas at Wilson Estates Condominium being Lot 5, Block 1, Legacy Park Wilson Estates Addition) have submitted an Agreement to respread special assessments within the Lots.

The land was originally included in an improvement district for a public street improvement project. The purpose of the Agreement is to respread special assessments to more fairly distribute the cost of the improvement.

There is no cost to the City.

Motion--      Brewer moved that the Agreement be approved and the necessary signatures be authorized. Motion  
--carried      carried 6 to 0, (Mayans absent).

**EVERGREEN ADD.      RESPREAD ASSESSMENTS: LOT 21, BLOCK 9, EVERGREEN ADDITION – SOUTH OF 29TH STREET NORTH, WEST OF MAIZE. (DISTRICT V)**

Agenda Report No. 04-0863

The landowners, Socora Village Company, Intrust Properties, Inc., and Target Corporation, of Lot 21, Block 9, Evergreen Addition have submitted an Agreement to respread special assessments within the Lot.

The land was originally included in an improvement district for a main sanitary sewer public improvement project. The purpose of the Agreement is to respread special assessments to more fairly distribute the cost of the improvement.

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 397

There is no cost to the City.

Motion--  
--carried

Brewer moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 6 to 0, (Mayans absent).

## **MCDONALD GOLF COURSE**

### **ASSIGNMENT OF LEASE OF ANTENNA SITE AT MCDONALD GOLF COURSE. (DISTRICT II)**

Agenda Report No. 04-0864

In December 2000, the City Council approved a lease with Horizon Telecommunications allowing Horizon to construct a tower to provide wireless service on an approximately 2,500 square foot portion of the maintenance area of McDonald Golf Course. This lease was assigned to Lattice Communications with City Council approval in February 2001. Lattice has requested that they be allowed to transfer their rights and obligations under the lease to Pinnacle Towers Acquisition LLC.

The lease agreement provides for assignment upon approval of the City. Upon assignment, Pinnacle will be bound by the same responsibilities and duties as Horizon. The agreement specifies that if Pinnacle should default on the lease, Pinnacles lender will be notified and the lender will take over the lease under the existing terms and conditions.

The City revenues from the lease remain unchanged.

Motion--  
--carried

Brewer moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 6 to 0, (Mayans absent).

## **COWSKIN CREEK**

### **CONSULTANT SERVICES FOR ACQUISITION AND RELOCATION – COWSKIN CREEK CHANNEL IMPROVEMENTS – KELLOGG TO MAPLE. (DISTRICT V)**

Agenda Report No. 04-0865

The planned flood protection project on the Cowskin Creek between Kellogg Avenue and Maple Street will require the acquisition of 9 tracts. Due to project funding sources, these tracts require acquisition and relocation pursuant to the Uniform Relocation Assistance and Property Acquisition Act. The tracts include both residential and commercial properties.

Proposals to provide acquisition and relocation services were solicited from qualified firms. Grubb & Ellis/Martens Commercial Group LLC was selected from among the proposals by the review committee based on qualifications and the lowest cost. Based on their proposal, it is estimated that \$17,500 will be sufficient to complete the assignment.

Funding is available within the project budget to fund the proposed increase. Project costs will be funded with general obligation bonds.

Motion--  
--carried

Brewer moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 6 to 0, (Mayans absent).

## **KDHE**

### **RENEWAL OF ENVIRONMENTAL LEAD INVESTIGATION CONTRACT WITH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT.**

Agenda Report 04-0866

Staff from the Department of Environmental Health perform environmental lead assessments in homes where children have been diagnosed as having elevated blood lead levels. Elevated blood lead levels pose physical risks that include developmental disabilities and learning impairment, and are especially

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 398

serious in young children. Sources of lead include interior paint and plumbing, particularly in older houses. The work is performed under a contract with the Kansas Department of Health and Environment (KDHE). There are no local KDHE staff that are able to perform this function; KDHE has provided lead assessor training for one Environmental Health employee. KDHE has offered renewal of the contract for state fiscal year 2005.

Ten to twenty assessments are conducted annually. The contract provides a needed service to citizens at no direct cost to the City.

KDHE pays the City \$150 per assessment to cover costs. Projected annual revenue ranges from \$1,500 to \$3,000.

Motion--  
--carried

Brewer moved that the contract be approved and the necessary signatures be authorized. Motion carried 6 to 0, (Mayans absent).

## GROUNDWATER SAMPLING

### CONTRACT FOR GILBERT-MOSLEY GROUNDWATER SAMPLING.

Agenda Report 04-0867

The treatment system for the Gilbert-Mosley groundwater remediation project pumps and treats approximately 1.5 million gallons of groundwater per day. Groundwater and surface water are sampled periodically to demonstrate the effectiveness of the treatment process and the overall progress of the groundwater remediation project.

Sampling and testing of groundwater and surface water in the Gilbert- Mosley project area is required by the Kansas Department of Health and Environment as part of the City's remediation plan. Camp Dresser McKee was selected as vendor for sampling and analytical services following the City's request for proposals.

Costs for this activity are included in the current budget for the Gilbert-Mosley tax increment finance district (TIF #1). Total value of the contract for sampling services is \$69,065, over a fifteen-month period.

Motion--  
--carried

Brewer moved that the contract with Camp Dresser McKee be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## GILBERT-MOSLEY

### AMENDMENT TO AGREEMENT FOR GILBERT-MOSLEY CONSULTING SERVICES.

Agenda Report 04-0868

In 1990, routine testing detected groundwater pollution in downtown Wichita. In 1991 the City signed an agreement with KDHE to investigate and remediate the pollution in the Gilbert - Mosley site. The City's remediation system currently treats over 1.5 million gallons of groundwater daily, limiting the spread of the contamination plumes and treating the contaminated water. In addition to maintenance of the treatment system, the City must evaluate and report the project's effectiveness to KDHE, and address source areas and their continued contribution to the groundwater pollution. Camp Dresser & McKee (CDM) was selected in 1991 to provide environmental consulting and engineering for the project, and has assisted the City in investigation of the site, engineered capture of contamination plumes, and design and construction of the remediation system.

Maintenance of the remediation system is critical to cleanup of the groundwater pollution; extension of CDM's contract will provide consistent service, and was authorized in the original contract. This amendment will re-establish tasks previously authorized by council, but removed to finance technical support needed during litigation with responsible parties in the site.

The cost for activities outlined in the contract amendment totals \$272,000, and is included in the current budget. The Purchasing office has recommended the amendment to the contract.

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 399

Motion--  
--carried

Brewer moved that the contract amendment with Camp Dresser McKee be approved and the necessary signatures be authorized. Motion carried 6 to 0, (Mayans absent).

## **SANITARY SEWER NORTH SANITARY SEWER AREA ENGINEERING SERVICES AGREEMENT** **(DISTRICT VI)**

Agenda Report No. 04-0869

The Capital Improvement Program includes an ongoing project to extend sanitary sewer mains to areas where sanitary sewer service is not currently available. One such area is bound by West Street, the Little Arkansas River on the east, one-half mile north of 61st Street North, and approximately one-fourth mile south of 53rd Street North. The area is primarily residential and undeveloped land. The Department of Environmental Health reports that there are a number of failing septic systems in the residential neighborhoods and pollution is a concern, due to the close proximity of private lateral lines to the Little Arkansas River.

City Council authorized the completion of a Service Plan for the North Area Sewer on February 12, 2002, and the plan was completed October of 2002. The Resolution of Findings of Advisability and Resolution authorizing the improvement of Main 15, Sanitary Sewer 23, in the City of Wichita was approved on October 21, 2003. A route study for the area was authorized April 6, 2004, and was completed June of 2004.

Two developers and one property owner have signed a petition for sewer service, and a survey by Staff indicated that other property owners, may join the benefit district as the project becomes more definite. The District Advisory Board for District VI reviewed the proposal to serve the area on May 5, 2003.

Proposals for Engineering Services for the design were received on July 7, 2004. The Staff Screening and Selection Committee met on July 22 and reviewed the submitted proposals. The committee reviewed the project scope and proposals, and selected three firms to make formal presentations. Presentations were held on August 3, 2004, and the committee unanimously selected MKEC.

The cost for design and construction of the project is estimated at \$2,750,000. Eighty-four (84) percent, or \$2,310,000, will be payable by the Sewer Utility and the remaining sixteen (16) percent payable by Special Assessments.

Payment to MKEC for the performance of professional services shall not exceed \$193,000. Funding is available in CIP S-5 (Mains for Future Development) of \$406,769 for this Agreement. Construction will begin in 2005 with funding available for the year of \$2,000,000 in CIP S-5. Sewer Utility cash, or future revenue bonds will fund the entire project.

City Council authorization is required for Agreements in excess of \$10,000.

Motion--  
--carried

Brewer moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 6 to 0, (Mayans absent).

## **KMBDC**

## **KANSAS MINORITY BUSINESS DEVELOPMENT COUNCIL.**

Agenda Report 04-0870

On August 10, 2004, the City Council approved the revised budget that included funding assistance in the amount of \$35,000 for the Kansas Minority Business Development Council, Inc for economic development services. Staff has developed the necessary contractual documents and performance measurements.

The Kansas Minority Business Development Council (KMBDC) is a non-profit organization that was

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 400

created in January 1991. Its mission statement is to promote and enhance minority and woman-owned business enterprises by increasing business opportunities and access to mainstream markets. The primary goal is to improve the economic viability of small, minority and women owned businesses in Wichita, with an emphasis on job creation. Another goal is to encourage purchasing from small minority and women owned businesses and improve business opportunities for such firms within Wichita and Sedgwick County.

A contract has been negotiated with the Kansas Minority Business Council, which establishes performance measures and funding. Small, minority and women owned businesses would be served under the contract. The contract term is January 1, 2004 to December 31, 2004.

The contract amount is \$35,000 and funding is appropriated in the 2004 revised budget.

Motion--  
--carried

Brewer moved that the contract be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## 13<sup>TH</sup>/BROADWAY

### INTERSECTION OF 13<sup>TH</sup> AND BROADWAY. (DISTRICT VI)-SUPPLEMENTAL.

Agenda Report No. 04-0871

On January 5, 1999, the City entered into an Agreement with Ruggles & Bohm, P.A. (R&B) for designing improvements to the intersection of 13th & Broadway. The fee was \$38,400.

Kansas Department of Transportation (KDOT) has agreed to participate in the project funding for \$975,000. R&B has been asked to convert the plans to KDOT format in order to conform to KDOT standards. A Supplemental Agreement has been prepared that will allow this work to be accomplished.

Payment to R&B for the Supplemental Agreement will be made on a lump sum basis of \$11,285.20, and will be paid by General Obligations Bonds.

Motion--  
--carried

Brewer moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## 27<sup>TH</sup> ST. NORTH

### 27<sup>TH</sup> STREET NORTH, FROM ARKANSAS TO MARKET. (DISTRICT VI)-SUPPLEMENTAL.

Agenda Report No. 04-0872

On June 8, 2004, the City entered into an Agreement with Baughman Company, P.A. (R&B) for designing improvements to 27th Street North, from Arkansas to Market. The fee was \$18,800.

The Water & Sewer Department have some old sewer lines within the east limit of the paving project that need to be replaced. Baughman has been asked by the Water Department to design a new sewer line to be installed along with the paving project. The proposed Supplemental Agreement provides for the additional design services.

Payment to Baughman will be on a lump sum basis of \$6,950, and will be paid by Revenue Bonds.

Motion--  
--carried

Brewer moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## WYATT ADDITION

### SOUTH HYDRAULIC PARK AND WYATT ADDITION, SOUTH OF 46<sup>TH</sup> STREET SOUTH, BETWEEN LULU AND HYDRAULIC. (DISTRICT III)

Agenda Report No. 04-0873

The City Council approved the paving improvements in South Hydraulic Park and Wyatt Addition on

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 401

January 6, 2004.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond-financed improvements consisting of paving in South Hydraulic Park and Wyatt Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$25,600, and will be paid by special assessments.

Motion--  
--carried

Brewer moved that the Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## **TURKEY CREEK**

### **TURKEY CREEK ADDITION, NORTH OF PAWNEE, WEST OF 119<sup>TH</sup> STREET WEST.** **(DISTRICT IV)**

Agenda Report No. 04-0874

The City Council approved the water distribution system, sanitary sewer and paving improvements in Turkey Creek Addition on May 18, 2004.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond-financed improvements consisting of water distribution system, sanitary sewer and paving in Turkey Creek Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$60,400, and will be paid by special assessments.

Motion--  
--carried

Brewer moved that the Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## **PRAIRIE POINTE**

### **PRAIRIE POINTE ADDITION, NORTH OF 37<sup>TH</sup> STREET NORTH, WEST OF MAIZE.** **(DISTRICT V)**

Agenda Report No. 04-0875

The City Council approved the water distribution system, sanitary sewer, storm water drainage and paving improvements in Prairie Pointe Addition on July 20, 2004.

The proposed Agreement between the City and Professional Engineering Consultants, P.A. (PEC) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer, storm water drainage and paving in Prairie Pointe Addition. Per Administrative Regulation 7a, staff recommends that PEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to PEC will be on a lump sum basis of \$80,000, and will be paid by special assessments.

Motion--  
--carried

Brewer moved that the Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 402

## CASTLE ROCK

### **SAVANNA AT CASTLE ROCK RANCH 10<sup>TH</sup> ADDITION, WEST OF 143<sup>RD</sup> STREET EAST, NORTH OF 13<sup>TH</sup>. (DISTRICT II)**

Agenda Report No. 04-0876

The City Council approved the water distribution system and sanitary sewer improvements in Savanna at Castle Rock Ranch 10th Addition on July 13, 2004.

The proposed Agreement between the City and Professional Engineering Consultants, P.A. (PEC) provides for the design of bond financed improvements consisting of water distribution system and sanitary sewer in Savanna at Castle Rock Ranch 10th Addition. Per Administrative Regulation 7a, staff recommends that PEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to PEC will be on a lump sum basis of \$11,100, and will be paid by special assessments.

Motion--  
--carried

Brewer moved that the Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## CHANGE ORDER

### **CHANGE ORDER: SANITARY SEWER RECONSTRUCTION IN AN AREA BOUNDED BY LINCOLN, OLIVER, HARRY AND BLUFF STREETS. (DISTRICT III)**

Agenda Report No. 04-0877

On February 3, 2004, the City Council approved a contract to reconstruct sanitary sewers in an area bounded by Lincoln, Oliver, Harry, and Bluff Streets. It has since been determined that approximately 400 feet of concrete encased pipe should be removed. In addition, approximately 200 feet of new pipeline should be concrete encased because of its close proximity to an existing water line.

A Change Order has been prepared for the additional work. Funding is available within the project budget.

The total cost of the additional work is \$15,379, with the total paid by the Sewer Utility. The original contract is \$331,131. The Change Order represents 4.64% of the original contract amount.

The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Motion--  
--carried

Brewer moved that the Change Order be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## SPECIALS

### **PROPOSED ASSESSMENT ROLLS.**

Proposed Assessment Rolls have been prepared for fifty (50) paving projects and it is necessary to set a public hearing date. Informal hearing with City personnel will be held October 4, 2004 at 11:00 a.m.

Motion--  
--carried

Brewer moved that the hearing on the Proposed Assessment Rolls be set for 9:30 a.m., Tuesday, October 19, 2004, and the City Clerk be directed to publish the notices of hearing at least once not less than 10 days prior to the date of the hearing. Motion carried 6 to 0, (Mayans absent).

## CONT/AGRMNTS

### **CONTRACTS & AGREEMENTS, PROFESSIONAL CONTRACTS UNDER \$10,000 AND ANNUAL MAINTENANCE CONTRACTS OVER \$10,000 FOR AUGUST 2004.**

Motion--carried

Brewer moved that the report be received and filed. Motion carried 6 to 0, (Mayans absent).



# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 403

750 E. 21<sup>ST</sup> ST.

## **PERMANENT EASEMENT OVER A PORTION OF 750 EAST 21ST STREET NORTH FOR 21ST STREET BRIDGE OVER CHISHOLM CREEK. (DISTRICT VI)**

Agenda Report No. 04-0878

On February 3, 2004, the City Council approved the project location and initiation of acquisition for the reconstruction of the bridge over the west branch of Chisholm Creek at 21st Street North. The project will require the acquisition of two permanent easements. One of the required easements is located at 750 East 21st Street North. The parcel is owned by Levand-Rudd Properties LLC. The easement area is undeveloped. It is the last of the two easements needed.

The project requires a 421 square foot permanent easement at the southwest corner of the site. Two temporary easements totaling 2,099 square feet are also required. A fence and gate located on the permanent tract will need to be relocated. The owners have agreed to accept \$4,685 as compensation for granting all easements and relocation of the fence.

The funding source is general obligations bonds and Federal highway improvement monies. A budget of \$4,700 is requested. This includes \$4,685 for the easements and \$15 for recording fees.

Motion--  
--carried

Brewer moved that the budget be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

HILLSIDE/2<sup>ND</sup> ST.

## **SOUTHEAST CORNER OF HILLSIDE AND 2<sup>ND</sup> STREET: HILLSIDE, KELLOGG TO CENTRAL. (DISTRICT II)**

Agenda Report No. 04-0879

The Hillside Improvement Project, Kellogg to Central, was approved for design and right-of-way acquisition by the City Council on December 11, 2001. One of the tracts to be acquired is southwest corner Hillside and 2nd Street. The site contains 2,438 square feet and is improved with a 2,300 square foot retail parking lot. The project requires that the access drives to the lot be closed thus requiring the acquisition of the entire site.

The acquisition was appraised at \$17,000. The owner countered at \$36,000. This amount equates to an amount he was offered for the site in 2002. The offer was withdrawn when the purchaser learned of the pending road project. The owner will accept \$36,000.

Funds have been budgeted in the 2004 Capital Improvement Program for project acquisitions. The funding source is General Obligation Bonds. A budget of \$38,000 is requested. This represents \$36,000 for acquisition, \$1,000 for closing costs, surveys, title insurance and other miscellaneous costs, and \$2,000 for demolition.

Motion--  
--carried

Brewer moved that the Budget and the Real Estate Purchase Contracts be approved and the necessary signatures be authorized. Motion carried 6 to 0, (Mayans absent).

UNION PACIFIC  
RAIL CORRIDOR

## **PORTIONS OF THE ABANDONED UNION PACIFIC RAIL CORRIDOR FOR THE MIDTOWN GREENWAY. (DISTRICT VI)**

Agenda Report No. 04-0880

In 1999, the Union Pacific Railroad abandoned the rail corridor that runs from Central Avenue and Wichita Street to Broadway and 15th Street North. Through this abandonment, rights to the corridor reverted to the adjacent property owners on both sides. The City has reviewed the former corridor and decided that it could be utilized to develop a greenway/lineal park connecting Horace Mann, Irving and Park Schools and the bicycle path on Central. In April 2002, the City Council approved \$74,000 in CDBG funding to acquire portions of the abandoned Union Pacific corridor from Central to 15th Street

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 404

from adjacent property owners.

Due to their size and configuration, the tracts being acquired are not developable by themselves. The majority of the tracts abut developed properties but lie outside the fenced, defined boundaries of the properties. The purchase price of similar tracts was reviewed to estimate market value. These amounts were offered to the adjacent property owners with several accepting the offers. The contracts represent one tract with a total value of \$1,000.

A budget of \$1,000 is requested, consisting of \$1,000 for acquisition and \$100 for recording fees. The funding source is previously approved CDBG funds.

Motion--  
-- carried

Brewer moved that the Budget and Contracts be approved and the necessary signatures be authorized. Motion carried 6 to 0, (Mayans absent).

## **777 WEST CENTRAL PORTION OF 777 WEST CENTRAL FOR THE RIVER CORRIDOR IMPROVEMENT PROJECT. (DISTRICT VI)**

Agenda Report No. 04-0881

The City of Wichita is designing a plan to improve the river corridor in the downtown area. A key component of the improvement plan is near the confluence of the Big and Little Arkansas Rivers. The plan calls for the construction of pedestrian bridges linking Exploration Place, the Keeper of the Plains, and the north bank of the Little Arkansas. The plan calls for public space at the north terminus of the bridges. The riverbank and associated paths will also be upgraded and beautified. To accomplish this, the City will need to acquire approximately 340,000 square feet of land on the north bank of the Little Arkansas. An estimated 150,000 square feet is developable with the remainder consisting of riverbank or strips along the bank.

The buildable area was appraised at \$2,900,000 by the owner and \$680,000 by the City. No value was assigned to the non-buildable areas and bank areas. The owner has agreed to sell the property for \$1,500,000. This is 16% below the average of the two appraisals. The seller will also grant necessary temporary construction easements to the City.

The funding source for the project is General Obligation bonds and Federal monies. A budget of \$1,525,000 is requested. This includes \$1,500,000 for the acquisition, and \$25,000 for survey costs, environmental review, title work and closing costs.

Motion--  
-- carried

Brewer moved that the Budget and Contracts be approved and the necessary signatures be authorized. Motion carried 6 to 0, (Mayans absent).

## **PLAYGROUND PLAYGROUND REHABILITATION. (DISTRICTS I, III, AND IV)**

Agenda Report No. 04-0882

Starting in 2000 the City has been in the process of renovating playgrounds and replacing playground equipment across the city of Wichita to enhance this community resource and address safety concerns associated with current configurations. To date, the City has renovated fully or partially 62 of the 71 playgrounds.

The 2004 and 2005 Park Capital Improvement Program (CIP) includes \$200,000 in funding to rehabilitate park playgrounds and amenities in various locations. The following park and recreation sites have been identified for renovation and equipment replacement in 2004 and 2005: Lincoln Park, Herman Hill Park and Orchard Park

Investment in Lincoln Park will be to install poured-in-place (PIP) rubber safety surfacing beneath the new equipment, installed in 2002, allowing for full accessibility. Removing the sand safety surfacing and replacing with PIP safety surfacing also reduces maintenance to the interactive water feature as

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 405

children will not be introducing sand from the playground into the fountain. Herman Hill and Orchard Parks will receive new playground systems.

The 2004 and 2005 Park CIP includes \$100,000 each year, \$200,000 total, for renovating playgrounds equipment. The funding source is general obligation bonds.

Motion--  
--carried

Brewer moved that the bonding resolution be approved; initiation of the project be authorized and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. 04-465

A Resolution authorizing the issuance of bonds by the City of Wichita at Large for labor, material, and equipment and design furnishings and installation of playground equipment, rubber safety surfacing and improvements for Lincoln Park, Herman Hill Park and Orchard Park, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## WATSON PARK

### O.J. WATSON PARK IMPROVEMENTS. (DISTRICT III)

Agenda Report No. 04-0883

O.J. Watson Park is located at 3055 South Old Lawrence Road, and provides not only open space but recreational activities for youths and adults. Approximately 200,000 people visit Watson Park each year. The last major investment occurred in 2003 when playground equipment and safety surfacing were upgraded.

The proposed initial improvements include moving the park entrance to the west side of the park along McLean Blvd. and enhancing the entrance area with landscaping and irrigation. Additional improvements will include extending the train tracks, renovating/replacing the bridge and train shelter, bank restoration and replacement of paddleboats.

City staff has evaluated the park and the project will make the park more accessible and visible to the public, preserve existing facilities, ensure user safety, and add features that will increase revenue. Upon completion of the initial design, staff will present the design to District Advisory Board III to receive comments and to incorporate community suggestions into the project plan.

The CIP includes a total of \$600,000 for O.J. Watson Park improvements, \$300,000 each year in 2005 and 2006. At this time, approval is being requested to initiate \$60,000 of the project budget for design services. Upon approval, a design architect will be chosen through the Request for Proposal (RFP) process.

Motion--  
--carried

Brewer moved that the project design request be authorized, the bonding resolution approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. 04-466

A Resolution authorizing the issuance of bonds by the City of Wichita at Large for the design services for the Watson Park Improvements, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## GREENWAY IMPROV. SOUTH ARKANSAS RIVER GREENWAY IMPROVEMENTS. (DISTRICT III)

Agenda Report No. 04-0884

South Arkansas River Greenway is a 158.06 acre undeveloped parcel of land that was acquired by the city in 1994, 1995, and 1996. This tract is located at 71st Street South and the Big Arkansas River. The property was acquired to protect riparian habitat along the river and to provide for a canoe

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 406

launching access point in connection with other canoe launching points planned along the Big Arkansas River.

The City recently entered into an agreement with Wichita Archery, Inc. (WAI) for the right to use, on a non-exclusive basis, approximately 20 acres of wooded land in this tract as an archery range. WAI will host archery tournaments, Junior Olympic Archery Development ("JOAD") activities, clinics and related activities. The archery range is being developed in coordination with Kansas Department of Wildlife and Parks staff.

The proposed initial improvements include a small parking lot and canoe launching point and access trail.

City staff developed preliminary design concepts that included a canoe launching site that would complement the canoe launch that is currently under construction at Garvey Park, Council District III. Upon completion of the initial design, the consultant and city staff will present the design to District Advisory Board III and the Design Council to receive comments and to incorporate community suggestions into the project plan.

The 2005 CIP includes a total of \$300,000 for South Arkansas Greenway improvements. At this time, approval is being requested to initiate \$30,000 of the project budget for design services. Upon approval, a design architect will be chosen through the Request for Proposal (RFP) process.

Motion--  
--carried

Brewer moved that the bonding resolution be approved, initiation of the project and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. 04-467

A Resolution authorizing the issuance of bonds by the City of Wichita at Large for the design services for the South Arkansas River Greenway Improvements, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## **BANKING SERVICES BANKING SERVICES RESOLUTION.**

Agenda Report No. 04-0885

In February, 2004, the City Council adopted resolution # 04-048 approving the selection of Intrust Bank, N.A. and authorizing the preparation, execution and delivery of agreements in connection therewith. The term of the agreement was to be from June 1, 2003 through May 30, 2004 with options to renew under the same terms and conditions for four (4) successive one (1) year terms by mutual agreement of the parties. The resolution specifically gave authority to Catherine Holdeman and Kelly Carpenter to enter into agreements with the bank to establish authorizations and to conduct or establish banking procedures.

The City Council has appointed George R. Kolb as City Manager effective July 27, 2004. A new resolution should be adopted granting authority to George Kolb and removing Catherine Holdeman's authority.

There are no costs involved in changing the Resolution.

The resolutions will be approved as to form by the Law Department prior to execution.

Motion--  
-- carried

Brewer moved that the Resolution appointing George R. Kolb and Kelly Carpenter and giving them authority to execute banking documents on behalf of the City of Wichita be adopted. Motion carried 6 to 0, (Mayans absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 407

## RESOLUTION NO. 04-468

A Resolution relating to the selection of Intrust Bank, N.A., as a banking services provider and updating authorizations for the preparation, execution and delivery of necessary Agreements in connection therewith, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans absent).

## **NUISANCE ABATE. NUISANCE ABATEMENT ASSESSMENTS.**

Agenda Report No. 04-0886

The Department of Environmental Health supports neighborhood maintenance and improvement through abatement of nuisances under Titles 7 and 8 of the City Code. State law and local ordinances allow the City to clean up or mow private property that is in violation of environmental standards after proper notification of the responsible party. A private contractor performs the work, and Environmental Health bills the cost to the property owner.

State law and city ordinance allow placement of the cleanup and mowing costs as a special property tax assessment if the property owner does not pay. Payment has not been received for the nuisance abatements in question, and Environmental Health is requesting permission for the Department of Finance to process the necessary special assessments.

Nuisance abatement and mowing contractors are paid through budgeted appropriations from the City's General Fund. Placement of special assessments provides for reimbursement of these expenditures to the City. Nuisance abatements to be placed on special assessment total \$20,397.84; weed mowing charges total \$11,045.84

These assessments are in accordance with Chapter 7.40.050 and 7.40.060 of the City Code.

Motion--  
--carried

Brewer moved that the proposed assessments be approved and the Ordinances be placed on first reading. Motion carried 6 to 0, (Mayans absent).

## ORDINANCE

1. An Ordinance making a special assessment to pay for the cost of cutting weeds in the City of Wichita, Kansas, introduced and under the rules laid over.

## ORDINANCE

2 An Ordinance making a special assessment to pay for the cost of abating certain public health nuisances (lot clean up) under the provision of Section 7.40.050 of the Code of the City of Wichita, Kansas, introduced and under the rules laid over.

## **BROOKS LANDFILL DECLINING OF GRANT AWARD-GRINDER FOR BROOKS LANDFILL.**

Agenda Report No. 04-0887

On January 7, 2003, the City Council approved the acceptance of a grant from the Kansas Department of Health and Environment. The grant was to pay a part of the cost of a horizontal grinder and related equipment at the landfill, and develop certain recycling programs.

The original grant application submitted to KDHE requested \$435,500 in State funds for the equipment and program. It was the City's intent to work with the City's landfill operations contractor, Herzog Environmental Inc., to use the grinder to recycle construction and demolition (C&D) waste that was brought to the landfill for disposal. Herzog has been largely unsuccessful in developing markets for material that could be processed by the grinder and then be recycled. The City also investigated making

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 408

use of ground asphalt shingles in cold asphalt patch, but this is not economically feasible at this time. The grinder has proven very effective in volume reduction of the C&D waste coming into the site and thereby conserving landfill space and extending the useful life of the landfill.

Because the grant intent was to facilitate development of recycling programs, the grant award can only be accepted if these activities are undertaken. The activities required under the grant are:

1. Processing C&D waste into a reusable material.
2. Use ground asphalt shingles in cold patch for roadwork,
3. Airing of a television spot a minimum of 250 times,
4. Hold a press conference after receipt of the grant equipment,
5. Change the name of the site to "Brooks C&D Recycling Center and Landfill, and
6. Co-operate with Herzog Environmental to develop markets for recycled material.

As the grant award by the State was for \$100,000 or 23% of the amount requested, Staff feels that it cannot recommend we proceed with the program originally proposed. Since KDHE is not willing to reduce the requirements, staff recommends that the City now decline the grant.

The City purchased the horizontal grinder in 2003 at an actual cost of \$336,662, with monies from the Landfill Fund. Declining the KDHE grant award will not impact the finances of the Landfill Fund. However, the City did receive \$25,000 from KDHE as an advance on the grant award. If the grant funds are not accepted, the \$25,000 will need to be returned to KDHE.

The City may terminate the grant agreement upon notice to KDHE. If the City terminates the agreement and declines the grant, it will be obligated to return the advance award.

Motion--  
--carried

Brewer moved that staff be directed to decline the grant award from KDHE and return the funds received as an advance. Motion carried 6 to 0, (Mayans absent).

## KANSAS CLICKS

### **2005/06 KANSAS CLICKS SPECIAL TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT.**

Agenda Report No. 04-0888

Since 2001, the Wichita Police Department has been awarded grant funds from the Kansas Department of Transportation to participate in the KANSAS CLICKS Special Traffic Enforcement Program (STEP). The KANSAS CLICKS STEP provides participating departments with grant money to pay for overtime worked by police officers performing safety belt surveys, public education, and enforcement work during the following designated mobilizations: Thanksgiving holiday, Child Passenger Safety Week, Memorial day/Buckle Up America Week, and Labor Day. The purpose of the STEP Program is to promote highway safety through awareness, education, and enforcement of the Kansas safety belt, child passenger safety, and impaired driving laws.

The KANSAS CLICKS Special Traffic Enforcement Program has been a critical component of the Police Department's Comprehensive Traffic Safety Plan, which focuses on awareness/education, enforcement, prevention, and equipment. The STEP grant will support increased education and enforcement, thus potentially reducing the number of traffic accidents that impact the quality of life in our community.

The Kansas Department of Transportation will reimburse the Police Department for overtime, not to exceed the amount of the grant, which is currently estimated at \$45,000.

Motion--  
--carried

Brewer moved that the STEP grant application and receipt of funds be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 409

## **KS DEPT WILDLIFE GRANT FOR ENVIRONMENTAL EDUCATION-KS DEPARTMENT OF WILDLIFE & PARKS.**

Agenda Report No. 04-0889

As part of the Gilbert-Mosley groundwater remediation project, the City constructed and operates the Wichita Area Treatment Education and Remediation Center in Herman Hill Park. In addition to serving as a treatment facility for contaminated groundwater, the WATER Center incorporates educational features that include a classroom, aquariums, and stream with native flora and fauna, and other exhibits. The Center has attracted over 5000 visitors in its first ten months of operation.

The availability of existing staff and educational funding currently limits further development of aquatic education programs, and restricts public access to approximately four hours per week. The Department of Environmental Health is seeking a grant through the Kansas Department of Wildlife and Parks to support a part-time environmental educator based out of the WATER Center. This grant-funded position would assist with public tours, aquarium operation and maintenance, and development of displays and educational materials. Acquisition of the additional position would also allow expansion of the WATER Center's hours of operation.

The grant application requests a total of \$50,000. Funds currently budgeted for WATER Center operations would fulfill the grant requirement for a 25% local match.

The Law Department will review the grant award contract as to form, upon receipt.

Motion--  
--carried

Brewer moved that the grant application and acceptance of the grant be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## **PLANNING AGENDA**

John Schlegel

Planning Director reported that Item 23 would be pulled at the request of the applicant for 30 days.

Motion--  
--carried

Brewer moved to approve the Planning Agenda Items as presented, except Item 23. Motion carried 6 to 0, (Mayans absent).

**ZON2004-20**

**ZON2004-20-ZONE CHANGE FROM TWO-FAMILY RESIDENTIAL TO GENERAL OFFICE. GENERALLY LOCATED ONE BLOCK EAST OF THE DOUGLAS AVENUE-WEST STREET INTERSECTION, MORE SPECIFICALLY 300-FEET NORTHEAST OF THE DOUGLAS AVENUE-MCCOMAS AVENUE INTERSECTION. (DISTRICT VI)**

John Schlegel

Planning Director reviewed the Item.

(Council Member Gray momentarily absent).

Agenda Report No. 04-0890

MAPC Recommendations: Approve, subject to Protective Overlay #144. (10-1)

MAPD Staff Recommendations: Approve, subject to Protective Overlay #144.

DAB VI Recommendations: Approve, subject to Protective Overlay #144. (7-0)

The applicant's 1.23-acre (396-foot (x) 135-foot) unplatted tract is divided by two zoning classifications. The south 0.86-acre portion of the applicant's tract is zoned "LC" Limited Commercial. The "LC" portion of the tract is mostly paved commercial parking built around an on-site auto repair business (currently not operating) and a residential structure, which is used as residential rental property. The north 0.37-acre portion of the applicant's tract is zoned "TF-3" Two-family Residential; duplex residential. The "TF-3" zoned portion of the tract is undeveloped except for its southern approximately 35-foot (x) 135-foot section, which has a portion of the paved parking lot from the "LC"

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 410

zoned section of the tract extending into it. This section of the existing parking area extending from the "LC" zoned portion of the tract into the "TF-3" zoned portion of the tract is what triggered the zoning change request. The "TF-3" zoning district does not permit off-site parking. The applicant is requesting consideration for a zoning change for all this "TF-3" portion of the tract, thus converting the portion of the parking lot in it, to "GO" General Office with a Protective Overlay.

The parking area serves the on-site business and residential rental, plus a beautician school located east of the site, across McComas Avenue. The applicant is not proposing to build anymore parking at this time. A "parking area, commercial", is a permitted use in the "GO", "LC", "NR" Neighborhood Retail, "GC" General Commercial, "CBD" Central Business District, "LI" Limited Industrial or "GI" General Industrial zoning districts.

The adjacent properties to the east and north of the site are zoned "TF-3" and are developed primarily as single family residential or as duplexes. Most of the residential structures in the adjacent residential areas were built from the 1920s to 1930, with the few remaining residences built in the late 1960s to the mid 1970s. The properties to the west, across McComas Avenue, are zoned "B" Multi-family Residential and "LC". The property zoned "B" is developed as apartments, which were built in the early 1970s. The "LC" zoned property has a commercial strip center on it (built in the early 1950s) and currently contains the beautician school, which is using the applicant's existing parking areas in both the "LC" and "TF-3" zoned sections.

The applicant had originally requested "LC" zoning. Staff had recommended, "GO" zoning, rather than the requested "LC" zoning. Staff noted that the site was not in complete compliance with the "Commercial" locational criteria; there was access onto Douglas, an arterial, but there was also access onto McComas, a residential street. The requested "LC" zoning for the commercial parking could also possibly bring other uses permitted in the "LC" zoning district that are not recommended by the Comprehensive Plan for this area, which is recommended for low density residential. Staff noted that the "GO" zoning would bring the approximately nonconforming 35-foot (x) 135-foot section of the existing parking area into compliance with the Unified Zoning Code. The "GO" zoning district would provide a transitional zoning between the applicant's existing predominate "LC" zoning on his property and the abutting residential zoning and development, as recommended by the "Office" Locational Guideline of the Comprehensive Plan. Because the subject site is in a revitalization area, the applicant has requested flexibility in regards to the zone change request triggering the platting requirement. Any future development, including paving for parking, on the recommended "GO" zoning would trigger the platting of the whole unplatted tract and require landscaping, screening, lighting, access control and any other applicable development standards, permits and inspections for future development on the "GO" section of the site.

DAB VI considered this case, for the first time, at their May 19, 2004 meeting and recommended approval (6-1) of the zoning change to "GO", as recommended by Staff. One person spoke in opposition to the requested zoning change at the meeting. The MAPC considered this case, for the first time, at their May 20, 2004 meeting and recommended approval (12-1) of the zoning change to "GO", as recommended by Staff. One person spoke in opposition to the requested zoning change at the meeting. Staff had received written protest against the requested zoning change that represent 41.14% of the land area.

The Wichita City Council consider this requested zoning change at their July 13, 2004 meeting and recommended (unanimously) that the request be sent back to DAB VI and the MAPC for reconsideration. The applicant has subsequently agreed to Staff's recommendation of "GO" zoning with a Protective Overlay, PO#144, and not the originally requested "LC" zoning. The PO #144 was not a part of the original zoning change request that was considered by the MAPC or DAB VI. DAB VI reconsidered this case at their August 2, 2004 meeting and recommended approval (7-0) of the zoning change to "GO" with PO#144, as recommended by Staff. Several persons spoke in opposition to the requested zoning change at the meeting. The MAPC reconsidered this case at their August 5, 2004 meeting and recommended approval (10-1) of the zoning change to "GO" with PO#144, as recommended by Staff. One person spoke in opposition to the requested zoning change at the meeting. There are still recorded protests against the zone change, which now represents 41.12% of the area. When over 20% of the area or owners protest a zoning change, the zone change cannot be approved except by at least a three – quarter majority vote of all members of the governing body. In Wichita this



# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 411

calculation is based on a distance of a 200-foot radius from the outer boundaries of the application area, based on the size of the subject property.

The recommended conditions of PO #144 are:

1. Signage will be a monument type and per Sign Code for the "NO" Neighborhood Office zoning district. No signs or illuminated signs are permitted along the north, northwest and east sides of the "GO" General Office zoned portion of the property where abutting or adjacent to residential zoning. No flashing, rotating or moving signs, signs with moving lights, or signs that create the illusion of movement are permitted. No portable or off-site signs are permitted.
2. Parking lot lighting elements will be a maximum of 14-feet tall and be a full cut-off type. A full cut-off type of exterior lighting is constructed in such a manner that all light emitted is projected downward, is permanently affixed and is nonadjustable. Lighting will be located no closer than 30-feet from the north and east sides of the "GO" zoned portion of the property and directed towards the south and west sides of the site.
3. Landscaping will be 1.5 times the minimum per the landscape code. A 15-foot landscape buffer will be provided along the north and east sides of the "GO" General Office zoned portion of the property. Landscaping will be installed at the time of any improvements to the "GO" General Office zoned portion of the property. Prior to the issuances of any building or paving permits a landscape plan will be reviewed and approved by the Planning Director.
4. At the time of any improvements to the "GO" General Office zoned portion of the property solid screening will be provided on the north and east sides of the "GO" General Office zoned portion of the property.
5. Permitted uses on the "GO" General Office zoned portion of the property are single-family residential, two-family residential and a commercial parking lot.
6. Platting for the entire site will be required at the time of any improvements, including paving, to the "GO" General Office zoned portion of the property or the "LC" Limited Commercial zoned portion of the property. No new points of access from McComas Avenue onto the "GO" General Office zoned portion of the property are permitted.
7. The maximum height for all structures is 35-feet.
8. No new points of access from McComas Avenue onto the "GO" General Office zoned portion of the property are permitted.

MIIt is recommended that the City Council upon reconsideration of the requested zone change take appropriate action, stating reasons.

Vice-Mayor Brewer Vice-Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Council Member Fearey Council Member Fearey stated that this has been a sticky situation with the Council sending it back to the DAB and the MAPC with the hope that a compromise could be reached and there is still a valid protest petition with the protesters point being that if the applicant does not intend to develop the subject site now for parking and he is not sure when he will develop it for parking, why does he need the rezoning. He as stated several times that he is not wanting to put parking there at this point. Stated that the protesters noted that the applicant could bring the non-compliant northern portion of his parking lot that was mistakenly put in the TF3 zone subject site into compliance by having only that portion rezoned. This would allow the northern 35 to 40 feet by 135 feet of non-complying parking lot to continue to operate as a it is now while allowing the rest of the subject site to remain TF3, which is what it is abutting the properties that are now zoned TF3. It gives the property owners more of a buffer that they usually look for in the zoning cases.

Motion-- Fearey moved to modify the MAPC's recommendation and that will require a 2/3 vote of the Council to restrict the zone change to the existing non-complying parking area and not to extend it into the rest of

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 412

--carried

the TF3 site. Motion carried 6 to 0, (Mayans absent).

(Agenda Item #23)  
A04-21

**A 04-21-REQUEST TO ANNEX LAND LOCATED NEAR THE SOUTHWEST CORNER OF THE INTERSECTION OF 29<sup>TH</sup> STREET NORTH AND MAIZE ROAD. (DISTRICT V)**

This Item was pulled from the Agenda at the request of the applicant.

VAC2003-16

**VAC2003-16-REQUEST TO VACATE TEMPORARY EASEMENTS DEDICATED BY SEPARATE INSTRUMENTS, GENERALLY LOCATED SOUTHWEST OF THE GREENWICH ROAD-KELLOGG AVENUE INTERSECTION. (DISTRICT II)**

Agenda Report No. 04-0892

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimously)

The applicant is requesting consideration for the vacation of two temporary easements located on the east side of Lot 1, East Kellogg Acres, as recorded on Film 359, Page 387. The East Kellogg Addition was recorded with the Register of Deeds December 23, 1955.

There is no mention of the purpose of the easements on the dedication, but the dedication does refer to no encroachment into the temporary easement and no interference with the ingress and egress onto the temporary easement. There is no reference on the dedication of how long the temporary easement would be in effect, thus the request to vacate. A condition of the vacation request was that the applicant provide a drainage plan for review and approval by the Public Works Engineer and Storm Water Management; this condition has been met. The vacation request is associated with CON2003-00007, a Conditional Use for a car wash, which was approved by the MAPC at their April 24, 2003 meeting.

The MAPC and its Subdivision Committee voted unanimously to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing and its Subdivision Committee meeting. No written protests have been filed.

A certified copy of the Vacation Order will be recorded with the Register of Deeds

Motion--  
--carried

Brewer moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

VAC2004-25

**VAC2004-25-REQUEST TO VACATE PORTIONS OF A PLATTED SETBACK, GENERALLY LOCATED SOUTH OF HARRY STREET AND WEST OF HOOVER ROAD. (DISTRICT IV)**

Agenda Report No. 04-0893

Staff Recommendation: Approve

MAPC Recommendation: Approve (unanimously)

The applicant is requesting vacation of 15-feet of the platted 50-foot setbacks, generally running parallel to either the Eisenhower Avenue or Eisenhower Court right-of-way (ROW), as described in the legal, on Lots 4, 5, 9, & 10, Block 1, the Airport Industrial Park Addition. The Airport Industrial Addition was recorded with the Register of Deeds December 16, 1964.

All of the described setbacks run parallel to public street ROW. There was a previous case on one of the subject sites (VAC2000-30, Lot 9, Block 1, the Airport Industrial Park Addition) which vacated 15-feet of the 50-foot ROW on the Lot 9's south side, which runs parallel to Eisenhower Court. The applicant's proposal would replace the remaining 50-foot setback on Lot 9, with a consistent 35-foot setback; matching the 35-foot setback established by VAC2000-30 on Lot 9. The applicant's proposal

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 413

would give all the described properties (Lots 4, 5, 9, & 10, Block 1, the Airport Industrial Park Addition) a 35-foot setback. The UZC's standard for a front yard setback for the "LI" zoning district is 20-feet, with no minimum street side setback.

The MAPC and its Subdivision Committee voted unanimously to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing and its Subdivision Committee meeting. No written protests have been filed.

A certified copy of the Vacation Order and dedication by separate instrument of additional easements will be recorded with the Register of Deeds.

Motion--  
--carried

Brewer moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

**VAC2004-31**

**VAC2004-31-REQUEST TO VACATE A PORTION OF STREET RIGHT-OF-WAY  
LOCATED NORTHEAST OF THE WACO AVENUE AND CENTRAL AVENUE  
INTERSECTION. (DISTRICT VI)**

Agenda Report No. 04-0894

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimously)

The applicants are requesting consideration to vacate a portion of the Waco Avenue right-of-way (ROW) that is currently developed with a portion of the applicant's parking lot and a monument sign. The applicants' site is the office building on the northeast corner of the Waco Avenue – Central Avenue intersection. The subject site's legal description is Lot 1, the Park Plaza Third Addition. The Park Plaza Third Addition was recorded with the Register of Deeds July 12, 1982.

This portion of Waco Avenue ROW is abutting the north side of the applicants' property. The applicant has a minor street permit, in effect since January 1983, which allows these uses in the ROW, the northern portion of the applicants' parking lot and a monument sign. The current configuration of this portion of the ROW was established by the Park Plaza 1st Addition, which was recorded with the Register of Deeds August 1, 1969. The applicants' property was originally identified as "Reserve C" in the Park Plaza 1st Addition, with its uses restricted to public open space and a "limited access highway". The applicants' property was subsequently replatted as Lot 1, the Park Plaza Third Addition, which is its current legal description. The replat kept the applicants' property configuration and size the same, but removed its use restrictions. There is a platted 20-foot setback, which follows the applicant's property Waco Avenue frontage. The zoning of the vacated ROW will be "GO" General Office, which is the zoning of the applicants' abutting property. The vacated ROW will have the Unified Zoning Code's current street side setbacks for the "GO" zoning district, which is 15-feet. There are no encroachments into the setback created by the vacated ROW. There are no water, sewer or other utilities in the proposed vacated portion of the Waco Avenue ROW. A restrictive covenant will be filed to bind the vacated ROW to the applicants' property.

The MAPC and its Subdivision Committee voted unanimously to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing and its Subdivision Committee meeting. No written protests have been filed.

A restrictive covenant will be recorded with the Register of Deeds prior to a certified copy of the Vacation Order being recorded with the Register of Deeds.

Motion--  
--carried

Brewer moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 414

SUB2003-127

**SUB2003-127-PLAT OF HARVEST RIDGE COMMERCIAL ADDITION, LOCATED ON THE NORTH SIDE OF K-42 HIGHWAY AND WEST OF MAIZE ROAD. (DISTRICT V)**

Agenda Report No. 04-0895

Staff Recommendation: Approve the plat.  
MAPC Recommendation: Approve the plat. (10-0)

This unplatted site, consisting of one lot on 6.69 acres, is located within Wichita's city limits. The site has been approved for a zone change (ZON 2003-31) from SF-5, Single-Family Residential District to LI, Limited Industrial District.

A 100 percent Petition and a Certificate of Petition have been submitted for water line improvements. As requested by Traffic Engineering, a Cross-Lot Access Easement has been submitted. This site is located within the noise impact area of McConnell Air Force Base; therefore an Avigational Easement and Restrictive Covenant were required.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days. Publication of the Ordinance should be withheld until the Plat is recorded with the Register of Deeds.

The Certificate of Petition, Avigational Easement, Restrictive Covenant and Cross-Lot Access Easement will be recorded with the Register of Deeds.

Motion--

-- carried

Brewer moved that the documents and plat be approved; the necessary signatures authorized; the Resolution adopted and the (ZON 2003-31) Ordinance placed on first reading, with publication being withheld until the Plat is recorded with the Register of Deeds. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. 04-469

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90007 (north of K-42 Highway, west of Maize Road), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## ORDINANCE

Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, introduced and under the rules laid over. (ZON 2003-31)

SUB2004-23

**SUB2004-23-PLAT OF BLUE LAKE ADDITION, LOCATED WEST OF WEST STREET AND ON THE NORTH SIDE OF MACARTHUR ROAD. (DISTRICT IV)**

Agenda Report No. 04-0896

Staff Recommendation: Approve the plat.  
MAPC Recommendation: Approve the plat. (8-5)

The negative votes reflect the concern of those Commissioners regarding a petition for contingent traffic improvements to fund traffic calming devices for Bluelake Street.

This site, consisting of 272 lots on 175 acres, is a replat of Big Lake Addition along with the unplatted land to the south. The southern portion of this site has recently been annexed into Wichita's city limits.

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 415

A zone change has been approved (ZON 2004-13) from MH, Manufactured Housing District and LI, Limited Industrial District to SF-5, Single-Family Residential District.

Petitions, all 100 percent, and a Certificate of Petitions have been submitted for water, paving, sewer and traffic improvements. A Restrictive Covenant was submitted to provide four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street. A Restrictive Covenant was also submitted to create a lot owner's association and set forth provisions for the ownership and maintenance of the proposed reserves.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

The Certificate of Petitions and Restrictive Covenants will be recorded with the Register of Deeds.

Motion--

--carried

Brewer moved that the documents and plat be approved; the necessary signatures authorized; the Resolutions be adopted and the ZON 2004-13 be placed on first reading with publication being withheld until the Plat is recorded with the Register of deeds. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. 04-470

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89988 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-471

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89989 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-472

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89990 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-473

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89991 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-474

Resolution of findings of advisability and Resolution authorizing construction of lift station for Main 22, Southwest Interceptor Sewer, 468-83860 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 416

## RESOLUTION NO. 04-475

Resolution of findings of advisability and Resolution authorizing construction of Main 22, Southwest Interceptor Sewer, 468-83861 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-476

Resolution of findings of advisability and Resolution authorizing construction of Lateral 1, Main 22, Southwest Interceptor Sewer, 468-83862 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-477

Resolution of findings of advisability and Resolution authorizing construction, of Lateral 2, Main 22, Southwest interceptor Sewer, 468-83863 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-478

Resolution of findings of advisability and Resolution authorizing construction of Lateral 3, Main 22, Southwest interceptor Sewer, 468-83864 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-479

Resolution of findings of advisability and Resolution authorizing construction of Lateral 4, Main 22, Southwest Interceptor Sewer, 468-83865 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-480

Resolution of findings of advisability and Resolution authorizing improving Bluelake, 31st Street South, and Bolin Drive from the south line of Lot 15, Block D, north, east and south to Sabin, and on Sabin from the southwest line of Bolin Drive, south to the north line of Lot 61, Block D. Bluelake Ct. (Lots 84 through 100, Block A), from the west line of Bluelake, west to and including the cul-de-sac, on Bluelake Ct. (Lots 101 through 117, Block A), from the west line of Bluelake, west to and including the cul-de-sac, and on Sabin Ct. from the west line of Sabin, west to and including the cul-de-sac and south to and including the cul-de-sac. Sidewalk be constructed along one side of Bluelake, 31st St. S., Bolin Drive and Sabin, 472-84074 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 417

## RESOLUTION NO. 04-481

Resolution of findings of advisability and Resolution authorizing improving Bluelake, from the south line of Lot 39, Block A, south to the south line of Lot 23, Block a, on Anna from the east line of Bluelake, east and north to the south line of Calvert, on Calvert from the east line of Bluelake east to the west line of Sabin, and on Sabin from the south line of Calvert, north to the north line of Lot 61, Block D. Bluelake Ct. (Lots 21 through 28, Block B), from the east line of Bluelake, east to and including the cul-de-sac, on Sabin Ct. (Lots 54 through 59, Block d), from the south line of Sabin Ct., south to and including the cul-de-sac and on Sabin Ct. (Lots 43 through 53, Block D), from the west line of Sabin, west to and including the cul-de-sac. Sidewalk be constructed along one side of Bluelake, Anna, Calvert and Sabin, 472-84075 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-482

Resolution of findings of advisability and Resolution authorizing improving Bluelake, from the south line of Lot 39, Block A, north to the south line of Lot 15, Block D. Bluelake Ct. (Lots 94 through 100, Block D), from the east line of Bluelake, east to and including the cul-de-sac, on Bluelake Ct. (Lots 45 through 54, Block A), from the northwesterly line of Bluelake, northerly to and including the cul-de-sac, on Bluelake Ct. (Lots 59 through 69, Block A), from the west line of Bluelake, west to and including the cul-de-sac, and on Bluelake Ct. (Lots 70 through 83, Block A), from the west line of Bluelake, west to and including the cul-de-sac. Sidewalk to be constructed along one side of Bluelake, 472-84076 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-483

Resolution of findings of advisability and Resolution authorizing improving Bluelake, from the south line of the plat, north to the south line of Lot 23, Block A. Bluelake Ct. (Lots 9 through 13, Block A), from the west line of Bluelake, west to and including the cul-de-sac, on Bluelake Ct. (Lots 14 through 18, Block A), from the west line of Bluelake, west to and including the cul-de-sac, on Bluelake Ct. (Lots 19 through 22, Block A), from the west line of Bluelake, west to and including the cul-de-sac, and on Bluelake Ct. (Lots 16 through 20, Block B), from the east line of Bluelake, east to and including the cul-de-sac. Sidewalk to be constructed along one side of Bluelake, 472-84077 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-484

Resolution of findings of advisability and Resolution authorizing improving asphaltic mat pavement on Bolin Drive, from the east line of the plat, to West St., 472-84078 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-485

Resolution of findings of advisability and Resolution authorizing constructing a left turn lane on MacArthur Road to serve Blue Lake Addition, 472-84079 (west of West Street, north of MacArthur), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the, City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 418

## ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210 introduced and under the rules laid over. (ZON 2004-13)

SUB2004-36

**SUB2004-36-PLAT OF FONTANA ADDITION, LOCATED ON THE EAST SIDE OF 119<sup>TH</sup> STREET WEST AND ON THE NORTH SIDE OF 29<sup>TH</sup> STREET NORTH. (DISTRICT V)**

Agenda Report No. 04-0897

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (10-1)

The negative vote reflects the concern of a Commissioner regarding the need for a traffic signal.

This unplatted site, consisting of 276 lots on 137.5 acres, site has recently been annexed into Wichita's city limits and is zoned SF-5, Single Family Residential District.

Petitions, 100% percent, and a Certificate of Petitions have been submitted for paving, drainage, sidewalks, sewer, and water improvements. A Restrictive Covenant was submitted to create a homeowner's association to provide for the ownership and maintenance of the reserves.

Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street drainage and utility easements, a Restrictive Covenant was submitted outlining restrictions for lot-owner use of these easements. The Restrictive Covenant also provides four off-street parking spaces per dwelling unit on each lot that abuts a 32 or 58-foot street.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and days.

The Certificate of Petitions and Restrictive Covenant will be recorded with the Register of Deeds.

Motion--  
--carried

Brewer moved that the documents and plat be approved; the necessary signatures authorized and the and the Resolutions adopted. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. 04-486

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89999 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-487

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90000 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-488

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90001 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of



# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 419

Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0.  
Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-489

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90002 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0.  
Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-490

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90003 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0.  
Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-491

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90004 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0.  
Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-492

Resolution of findings of advisability and Resolution authorizing construction of Lateral 5, Main 7, Northwest Interceptor Sewer, 468-83877 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0.  
Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-493

Resolution of findings of advisability and Resolution authorizing construction of Lateral 6, Main 7, Northwest Interceptor Sewer, 468-83878 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0.  
Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-494

Resolution of findings of advisability and Resolution authorizing construction of Lateral 7, Main 7, Northwest Interceptor Sewer, 468-83879 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0.  
Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-495

Resolution of findings of advisability and Resolution authorizing construction of Lateral 8, Main 7, Northwest Interceptor Sewer, 468-83880 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0.  
Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 420

## RESOLUTION NO. 04-496

Resolution of findings of advisability and Resolution authorizing construction of Lateral 9, Main 7, Northwest Interceptor Sewer, 468-83881 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-497

Resolution of findings of advisability and Resolution authorizing construction of Lateral 10, Main 7, Northwest Interceptor Sewer, 468-83882 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-498

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 236, 468-83883 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-499

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 237, 468-83884 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-500

Resolution of findings of advisability and Resolution authorizing improving storm Water Drain No. 238, 468-83885 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-501

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 239 468-83886 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-502

Resolution of findings of advisability and Resolution authorizing construction, Covington from the north line of 29th Street North to the west line of Shefford; Shefford from the east line of Covington to the north line of Lot 61, Block 4; Covington Court to and including the cul-de-sac; Fontana from the east line of Covington to and including the cul-de-sac and Fontana Court to and including the cul-de-sac, 472-84086 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 421

## RESOLUTION NO. 04-503

Resolution of findings of advisability and Resolution authorizing improving Chambers from Fontana to the west line of Lot 35, Block 3; Park Ridge from Fontana to the west line of Lot 35, Block 3, and Fontana from Covington to the east line of Lot 23, Block 3 and Fontana from Covington to the east line of Lot 23, Block 3, 472-84087 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-504

Resolution of findings of advisability and Resolution authorizing improving Landon Circle from the south line of Fontana/Covington to and including the cul-de-sac and Chambers Circle from the south line of Fontana/Covington to and including the cul-de-sac, 472-84088(east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-505

Resolution of findings of advisability and Resolution authorizing improving Pine Grove from the north side of Fontana to Santana; Santana from Pine Grove to Judith; Judith from Santana to Fontana including the cul-de-sac and Fontana from the west line of Lot 24, Block 3 to 119th Street West, 472-84089 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-506

Resolution of findings of advisability and Resolution authorizing improving Mark Randal from 119th Street West to Judith; Judith from Mark Randal to Fontana and pine Grove Circle from Fontana South to and including the cul-de-sac, 472-84090 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-507

Resolution of findings of advisability and Resolution authorizing improving Mark Randal from the east line of Covington to the north line of Lot 22, Block 4; Cortina from the south line of Mark Randal to the east line of Lot 6, Block 5, including the cul-de-sac and Shefford from the east line of Lot 6, Block 5, to the north line of Lot 22, Block 4 including the cul-de-sac, 472-84091 (east of 119th Street West, north of 29th Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 422

SUB2004-82

## SUB2004-82-PLAT OF SOUTHERN RIDGE SECOND ADDITION, LOCATED ON THE SOUTH SIDE OF PAWNEE, WEST OF MAIZE ROAD. (DISTRICT V)

Agenda Report No. 04-0898

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

This site, consisting of 109 lots on 38.25 acres, is located within Wichita's city limits and is zoned SF-5, Single Family Residential District.

Petitions, all 100%, and a Certificate of Petitions have been submitted for sewer, water, pavement, drainage, and left-turn lane improvements. As requested by City Engineering, an off-site Drainage Easement has been submitted. A Restrictive Covenant has been submitted to provide for the ownership and maintenance of the proposed reserves and to create a lot owners' association to provide for the ownership and maintenance of the reserves. A Restrictive Covenant has also been submitted to provide four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

The Certificate of Petitions and Restrictive Covenants will be recorded with the Register of Deeds.

Motion--  
--carried

Brewer moved that the documents and plat be approved; the necessary signatures be authorized and the the Resolutions be adopted. Motion carried 6 to 0, (Mayans absent).

### RESOLUTION NO. 04-508

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90008 (south of Pawnee, west of Maize) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

### RESOLUTION NO. 04-509

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90009 (south of Pawnee, west of Maize) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

### RESOLUTION NO. 04-510

Resolution of findings of advisability and Resolution authorizing construction of Lateral 44, Cowskin Interceptor Sewer, 468-83893 (south of Pawnee, west of Maize) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

### RESOLUTION NO. 04-511

Resolution of findings of advisability and Resolution authorizing construction of Storm Water Sewer No. 610, 468-83894 (south of Pawnee, west of Maize) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 423

## RESOLUTION NO. 04-512

Resolution of findings of advisability and Resolution authorizing improving Lark from the east line of the plat, south to the north line of Hadden, on Lark from the south line of Hadden, south to the south line of the plat, on Hadden from the east line of Lark, east to the east line of the plat, on Fieldcrest St. from the west line of Lark, west to the west line of Lot 21, Block A. Atlanta Cir. from the west line of Lark, west to and including the cul-de-sac, and on Hadden Cir. from the west line of Hadden, west to and including the cul-de-sac. Sidewalk be constructed on Lark, Fieldcrest St., and Hadden, 472-84097, (south of Pawnee, west of Maize) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

## RESOLUTION NO. 04-513

Resolution of findings of advisability and Resolution authorizing improving Fieldcrest St. from the west line of Lot 21, Block A, west and north to the south line of Maxwell, on Maxwell from the east line of Fieldcrest St., west to the west line of Prescott, on Prescott from the north line of Maxwell, south to the south line of Savannah, and on Savannah from the east line of Prescott, west to the west line of the plat, on Fieldcrest Cir. from the north line of Fieldcrest St., north to and including the cul-de-sac, on Maxwell Cir. from the east line of Maxwell, east to and including the cul-de-sac; on Prescott Cir. (Lots 43 through 53, Block A), from the north line of Prescott, north to and including the cul-de-sac, and on Prescott Cir. (Lots 1 through 10, Block C) from the south line of Prescott, south to and including the cul-de-sac. Sidewalk be constructed on Fieldcrest St., Maxwell, Prescott, and Savannah, 472-84098 south of Pawnee, west of Maize) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans, absent).

CUP2002-00038

**CUP2002-00038-(DP-67 AMENDMENT #5) AND ZON2002-00055-EXTENSION OF TIME TO COMPLETE THE PLATTING REQUIREMENT FOR AN AMENDMENT TO THE NORTHBOROUGH COMMUNITY UNIT PLAN (CUP) AND A ZONE CHANGE FROM GENERAL OFFICE AND MULTI-FAMILY RESIDENTIAL TO OFFICE WAREHOUSE. GENERALLY LOCATED SOUTH OF 21<sup>ST</sup> STREET NORTH AND EAST OF WOODLAWN. (DISTRICT II)**

Agenda Report No. 04-0899

On January 7, 2003, the City Council approved an amendment to the Northborough Community Unit Plan and a zone change from "GO" General Office and "MF-18" Multi-Family Residential to "OW" Office Warehouse for approximately 47 acres located south of 21st Street North and east of Woodlawn. Approval was subject to the condition of platting the property within one year. The platting deadline was January 7, 2004, and the applicant has yet to file the plat due to a delay caused by exploring marketing opportunities for the property. The applicant has requested an extension of time to complete platting to November 30, 2004.

Staff recommends that an extension of time to complete platting requirements be granted to November 30, 2004. The City Council may deny the request for an extension of time to complete platting. Denying the extension would declare the CUP and zone change null and void and would require reapplication and rehearing if the property owner still desired a zone change.

No legal documents are required to enact the granting of platting extension. The granting of a platting extension is indicated via letter to the applicant noting the extended platting deadline as granted by the City Council.

Motion--  
--carried

Brewer moved that the extension of time to complete platting to November 30, 2004 be approved. Motion carried 6 to 0, (Mayans absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 424

**HISTORIC PRESER. PROGRAMMATIC AGREEMENT BETWEEN THE CITY OF WICHITA, THE KANSAS STATE HISTORIC PRESERVATION OFFICER AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION REGARDING THE ADMINISTRATION OF SECTION 106 REQUIREMENTS AND PROPERTIES AFFECTED BY THE USE OF HOUSING AND URBAN DEVELOPMENT FUNDS.**

Agenda Report No. 04-0900

In accordance with the City of Wichita "Consolidated Plan", the City staff administers Federal Housing and Urban Development (HUD) grant funds. For these local projects to be eligible for federal funding, an environmental assessment, which includes Section 106 Review for determination of adverse effect on historic properties, must be completed. Currently, completion of the environmental assessment requires review and written comment from the State Historic Preservation Officer (SHPO) for this process. This proposed programmatic agreement would allow City staff to complete these assessments for the projects identified in the agreement, rather than SHPO.

The execution of this agreement will streamline and shorten the review process for Section 106 review and HUD funded projects.

Motion--  
--carried

Brewer moved that the City Manager be authorized to sign the Programmatic Agreement. Motion carried 6 to 0, (Mayans absent).

**COMM. MEETINGS EXCEPTION TO THE REQUIREMENTS OF CODE SECTION 2.12.020(7) DEALING WITH MANDATORY ATTENDANCE AT CITY BOARD OF COMMISSION MEETINGS.**

Agenda Report No. 04-0901

Staff Recommendation: Approve the request.  
MAPC Recommendation: Not applicable.

City Code Section 2.12.020(7) states that a board member shall be removed from office by the City Council (after due notice and hearing) for nonattendance at three consecutive meetings or at more than 50 percent of meetings in a 12-month period. This provision of the code does not allow staff any administrative discretion when a commission member exceeds these minimum thresholds. But under Section 2.12.050, the City Council has the authority, in specific cases, to grant exceptions to this removal requirement.

On July 8, 2003, Mayor Mayans appointed Bob Hernandez to the Metropolitan Area Planning Commission (MAPC). Mr. Hernandez has more than met the minimum attendance requirement. However, his military reserve unit has notified him that he will have additional local duty, on an intermittent basis, including Thursday afternoons when the Metropolitan Area Planning Commission, and one of its subcommittees regularly meet. Previously, Mr. Hernandez's military duty had consisted of weekend duty except for two weeks a year that allowed him to attend most MAPC meetings. Now he is being called upon to serve on weekdays that may prevent him from attending MAPC meetings as often as required. Mr. Hernandez has indicated that he would like to continue to serve and attend MAPC meetings as often as his reserve duties allow. Therefore, due to his military commitments, Mr. Hernandez is requesting that the Council grant him an exception to the attendance rule contained in Section 2.12.020(7).

Granting this request would be consistent with federal policy that requires that employers preserve the equivalent of the status quo for individuals fulfilling military duty. While this is not an employment situation, granting the request would preserve to the maximum extent possible Mr. Hernandez's ability to serve the community while serving in the military. In typical situations, individuals called up for additional military services are often sent away from their communities, making it impractical for the individual to attend meetings. In this case, Mr. Hernandez expects to remain in the community for the

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 425

foreseeable future, providing him the opportunity to continue to serve; he is just no longer in complete control of his calendar.

Planning Commission members are nominated by each Council member and serve for two-year terms up to a maximum of eight years. The Commission has 14 total members and requires at least eight members to have a quorum for most Items.

Section 2.12.50 provides the Council with the authority to recognize situations that may arise that require the Council to review the rules and regulations that apply to appointed boards and commissions, and that the Council may make such exceptions by taking formal action to enact such an exception, provide that the exception is publicly disclosed with the reason for the exception.

Motion--

Brewer moved that Mr. Hernandez's military obligation be recognized and grant an exception to the attendance requirements of Section 2.12.020(7) for as long as Mr. Hernandez has extra local military duty. Motion carried 6 to 0, (Mayans absent).

--carried

## AIRPORT AGENDA

Motion--carried

Brewer moved to approve the Airport Agenda as presented. Motion carried 6 to 0, (Mayans absent).

### **AMPCO SYSTEM**

#### **AMPCO SYSTEM PARKING-SUPPLEMENTAL AGREEMENT NO. 1 - REMOTE PARKING LOT-WICHITA MID-CONTINENT AIRPORT.**

Agenda Report No. 04-0902

The Wichita Airport Authority currently has an agreement with AMPCO System Parking to manage and operate the public parking facilities on Wichita Mid-Continent Airport.

As a result of increased passenger traffic at Wichita Mid-Continent Airport, it is necessary to construct a remote parking lot to accommodate passengers desiring to park at the airport while traveling. The parking lot will provide approximately 460 additional parking stalls.

AMPCO has indicated its willingness to manage the remote parking lot, and to provide shuttle service to/from the long-term and remote parking lots to/from the terminal building for a monthly fee of \$500 plus reimbursement of actual operating expenses through March 31, 2005.

Motion--

Brewer moved that the supplemental agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

--carried

### **MIDFIELD ROAD**

#### **MIDFIELD ROAD SITE DEVELOPMENT SECURITY GATES AND PARKING LOT IMPROVEMENTS WICHITA MID-CONTINENT AIRPORT.**

Agenda Report No. 04-0903

The Wichita Airport Authority approved the Certified Engineering Consultants design contract on December 16, 2003.

A supplemental agreement has been prepared to provide construction-related services.

The cost of the construction-related services is \$25,185, and is within the project budget.

Motion--

Brewer moved that the supplemental agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

--carried

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 426

## PARKING LOT

### REMOTE PARKING LOT, WICHITA MID-CONTINENT AIRPORT-SUPPLEMENTAL.

Agenda Report No. 04-0904

The Wichita Airport Authority approved the Professional Engineering Consultants design contract on March 16, 2004.

A supplemental agreement has been prepared to provide construction-related services.

The cost of the construction-related services is \$69,730 and is within the project budget.

Motion--  
--carried

Brewer moved that the supplemental agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## TAXIWAY "A", "A-1"

### AIRFIELD PAVEMENT-TAXIWAY "A", "A-1", AND NORTH GENERAL AVIATION TAXILANE RECONSTRUCTION SUPPLEMENTAL AGREEMENT 1, WICHITA MID-CONTINENT.

Agenda Report No. 04-0905

On September 9, 2003 the Wichita Airport Authority approved an agreement with Professional Engineering Consultants for design services on Taxiway "A".

During construction, resident engineering and construction-related services are necessary in order to requirements. A supplemental agreement has been prepared to authorize the necessary services.

The cost of the services is \$582,966 and will be funded with an FAA grant, Passenger Facility Charges and Airport Revenue.

The agreement has been approved by the Law Department and will be approved by the Federal Aviation Administration.

Motion--  
--carried

Brewer moved that the supplemental agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## TAXIWAY "H", "H-1"

### TAXIWAY "H", "H-1" CONSTRUCTION WICHITA MID-CONTINENT AIRPORT.

Agenda Report No. 04-0906

Airfield pavement construction is included in the Capital Improvement Program.

The Staff Screening and Selection Committee interviewed five firms and selected Professional Engineering Consultants for the professional services.

In order for the FAA to better allocate funding, the FAA requires plans and specifications to be completed and construction bids be taken before a grant is written for the identified projects. Construction is planned for 2005.

The contract amount for design and bid phase services is \$39,335. The total project cost is currently estimated to be \$650,000. Ultimate funding for the project will be from AIP Federal Grant funds, Passenger Facility Charges, and General Obligation bonds paid for with Airport Revenue.

Motion--  
--carried

Brewer moved that the contract be approved; the resolution adopted; the capital budget approved and necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).



# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 427

## RESOLUTION NO. A 04-005

A Resolution declaring that a public necessity exists for, and that the public safety, service and welfare will be advanced by, the authorization of certain capital improvements to the Wichita Mid-Continent Airport Facility; and setting forth the nature of said improvements; the estimated costs thereof; and the manner of payment of same, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans absent).

### DEPT. OF AGRICUL. AGREEMENT-U.S. DEPT. OF AGRICULTURE.

Agenda Report No. 04-0907

In 2000, the WAA entered into an agreement with the U. S. Department of Agriculture/Wildlife funding for one specialist to assist the WAA in resolving wildlife issues at Wichita Mid-Continent and Jabara Airports. This agreement has been renewed annually for the past years.

Wildlife Services prepared a cooperative services agreement to collect biological assessment information, provide continuous wildlife management guidance and assistance to Airport staff and assist Airfield Operations and Maintenance personnel by responding directly to known wildlife nuisances and hazards.

The cost for the services provided is \$43,101 for the period October 1, 2004 through September 30, 2005. This amount is identical to the 2003/2004-contract amount for these services. One specialist, based on the airport, will be assigned to the project for approximately 32 hours per week. Work hours will vary to most appropriately interact with wildlife management issues. Funds are included in the operating budget.

Motion--  
--carried

Brewer moved that the Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

### PARKING LOT

### REMOTE PARKING LOT, WICHITA MID-CONTINENT AIRPORT.

Agenda Report No. 04-0919

On March 16, 2004 a project was approved to construct a remote parking lot to meet the increased demand for public parking. Proposals were solicited from vendors to provide the revenue control equipment that will operate the cashier-less lot using a credit card payment only mode of operation.

The selection committee interviewed three firms and selected Fisher Parking & Security, Inc. to provided the system.

The contract amount is \$287,058 and will be funded with G.O. bonds paid for with airport revenues. A budget adjustment of \$313,000 is necessary to fund this contract and utility relocation expenses. The total adjusted budget will be \$1,838,000.

Motion--  
--carried

Brewer moved that the contract be approved; the resolution adopted; the capital budget adjustment approved and the necessary signatures authorized. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. A-04-004

A Resolution declaring that a public necessity exists for, and that the public safety, service and welfare will be advanced by, the authorization of certain capital improvements to the Wichita Mid-Continent Airport Facility; and setting forth the nature of said improvements; the estimated costs thereof; and the manner of payment of same, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 428

## CITY COUNCIL

### **BOARD APPTS.**

### **BOARD APPOINTMENTS.**

Council Member Fearey Council Member Fearey requested that Shawna Mobley and Jaime Lopez be appointed to the Juvenile Corrections Advisory Board and Mike Relihan, Janet Craghead, Bill Livingston and Mike Tieman to the Self-Supporting Municipal Improvement District and for the SCMEA appointments, City Manager George Kolb as Director and Joe Pajor as the Assistant Director.

Vice-Mayor Brewer Vice-Mayor Brewer requested to reappoint Mike Bellinger to the Wichita Employees Retirement System.

Motion--carried Brewer moved that the appointments be approved. Motion carried 6 to 0, (Mayans absent).

## OLD BUSINESS

### **ANIMAL CODE**

### **REVISION OF ANIMAL MAINTENANCE CODE.** **(CONTINUED FROM AUGUST 3, 2004)**

Roger Smith Environmental Health Supervisor reviewed the Item.

Agenda Report No. 04-0783B.

Maintenance of domestic animals within the City is governed by Chapter 6.12 of the City Code. Standards specify the numbers and types of animals allowed, require proper sanitation of facilities, and provide for confinement of animals. Permits are required for maintenance of specified quantities or types of animals. During initial presentation of revisions on August 3, Council members expressed concerns relative to existing enclosures, particularly for horses. Subsequent questions were directed to staff concerning slaughter of animals in residential areas. Environmental Health staff has modified the proposed code to address those concerns.

Current regulations may not always preclude creation of nuisance conditions. Based on complaints received and conditions encountered, Environmental Health staff has drafted revisions to the present code. The draft code was presented to all five District Advisory Boards for comment. Minor alterations and clarifications have been incorporated based on DAB member and other citizen input.

All changes are shown on the delineated code copy provided. There were revisions following the August 3 Council presentation.

Revised permit fees will generate \$10,000 to \$15,000 annually in additional revenue.

Vice-Mayor Brewer Vice-Mayor Brewer inquired whether anyone wished to be heard.

Jennifer Tate Ms. Tate stated that she resides at 1808 South Santa Fe and that she has a low-income family and they have started raising animals for the purpose of feeding her family eggs from the chickens as well as meat occasionally. Stated that she heard that there is a concern regarding noise from rooster and that she found out that by putting the rooster in a cage and bringing it indoors for the night and out again at a reasonable hour, they have not had any problems with their neighbors. Stated that she has not had any complaints from any of her neighbors regarding her animals, they are within the 50-foot limit from their neighbor's homes. Wanted to address the fact that this is not just pets that we are talking about but is partially how she feeds her family and if this is restricted it will take food from her family.

Roger Smith Environmental Health Supervisor stated that the Code as presented on August 3<sup>rd</sup>, and as it is currently presented, would prohibit the keeping of roosters in the City as well as other birds that tend to disturb

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 429

the peace. Explained that there is a provision for a waiver if there is a situation where there is no nuisance created and if there are other means to address the intent of the Code—that the Health Officer can grant a waiver. Stated that they would need to see what was being done to guarantee it is not going to be a problem for the adjacent property owners. If the applicant disagrees with the Health Officer's decision, they have the right to appeal that to the City Council. Stated that there is a mechanism to deal with unusual situations.

- Jennifer Tate Ms. Tate stated that she feels there is no reason that this issue cannot be handled on a case-by-case basis such as the noise concerns. This would be no different then a barking dog and feels that it would be better handled to let people who are raising roosters, know of alternative ways not to bother their neighbors such as what she has done with bringing her rooster in at night instead of telling people that no one can have them.
- Council Member Gray Council Member Gray stated there is an appeals process set up, which will help each case be looked at on a case-by-case basis. Stated that Ms. Tate could have an inspection by the Health Officer to make sure she is in compliance and if she is in compliance with the code, she can be granted a variance based on the fact that no problems are being created by her variance or she can go to the Council for an appeal.
- Jennifer Tate Ms. Tate asked if they are planning on lowering the number of animals allowed as well, which is another concern because when you bring in chickens most places that you order eggs or chickens through, sell in minimums of 25 and it is necessary to keep above what she believes the limit is, which is 12 to supply food for her family.
- Council Member Gray Council Member Gray stated yes and this too would be looked at on a case-by-case basis for a possible variance.
- King David Davis Mr. Davis stated that this lady is trying to feed her family and is under stress because we have people in the institution who do not know how to raise a standard of accountability that would discourage people who would abuse their right to raise roosters. When the citizens at City Hall have a problem that they do not know how to deal with they create a blanket solution that sometimes does a lot more harm to a lot more good people.
- Richard Jessie Mr. Jessie stated that he resides at 3201 Woodland and has neighbors that live behind him that have some horses on a 66 x 300 foot lot and their house is on that and the horses have been kept in a small 12 foot by 24 foot structure for about two months. They get them out for 15 minutes a day at the very most, they do clean out their pens regularly but does not feel that these people should be allowed to keep horses in a small area such as this in the City. Would recommended that any extensions in the code that the Health Department has to offer be accepted and strengthen to accommodate them to eliminate these types of things in the City.
- Council Member Fearey Council Member Fearey stated that she is glad to see that there is something in place today and that the role of the City Council is not to just impose new rules but to make our community livable for all of its citizens and believes that this does this and allows a way for people who have a good reason to get a waiver.
- Motion--carried Brewer moved that the Ordinance be placed on first reading. Motion carried 6 to 0, (Mayans absent).

## ORDINANCE

An Ordinance amending Sections 6.12.010, 6.12.020, 6.12.030, 6.12.040, 6.12.050, 6.12.060, 6.12.070, 6.12.080, 6.12.085, 6.12.090 and 6.12.100 and enacting Sections 6.12.045 and 6.12.095 of the Code of the City of Wichita, Kansas pertaining to animal maintenance, introduced and under the rules laid over.

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 430

## UNFINISHED BUSINESS

### **HIST. PRESER. APPEAL OF HISTORIC PRESERVATION BOARD ACTION REGARDING DEMOLITION OF 1315 NORTH BROADWAY, HPC2004-00105. (DISTRICT VI) (CONTINUED FROM AUGUST 3, 2004)**

(Council Member Schlapp momentarily absent).

John Schlegel

Planning Director reviewed the Item.

Agenda Report No. 04-0812a.

This Item was originally heard at the August 3, 2004, City Council meeting. City Council deferred this Item to September 14 with instructions for staff to meet with the property owner and adjacent property owners to discuss alternatives to demolition.

Staff met with the interested parties on August 13 and all agreed to assist Mr. Tran in finding a new location and put together a plan to purchase 1315 N. Broadway upon finding a new location for his business. Mr. Tran agreed to this plan. The parties agreed to meet again when a suitable property is found. Staff will report to the council on September 14 any progress to date.

The HPB has a programmatic agreement with the State Historic Preservation Office to review applications for all properties individually listed or listed in historic districts in the state/national register of historic places. The Council has review authority over the decision of the Historic Preservation Board, as provided for in K.S.A. 75- 2724 and City Code Section 2.12.1023(c), and (f). In order for the City Council to overturn the decision of the HPB, all relevant factors must be considered and must find there is no “feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use.”

John Schlegel

Planning Director stated that the best course of action would be to defer this Item until a resolution is reached.

Motion—carried

Fearey moved to defer this Item until a resolution is reached. Motion carried 5 to 0, (Schlapp momentarily absent and Mayans absent).

CON2003-00008

### **CON2003-00008-CONDITIONAL USE FOR A WIRELESS COMMUNICATION FACILITY. GENERALLY LOCATED SOUTH OF KELLOGG AND EAST OF WOODLAWN- ADDITIONAL FINDINGS. (DISTRICT II) (DEFERRED FROM AUGUST 31, 2004)**

Gary Rebenstorf

Director of Law reviewed the Item.

Agenda Report No. 04-0891A

On June 17, 2003, the City Council voted (4-2) to deny an application for a Conditional Use to construct a wireless communication facility disguised as a stealth flagpole at this location. The City Council adopted 10 findings to support the denial. The applicants appealed the denial to the District Court where the matter was tried in R.H. Gump Revocable Trust, et al. v. City of Wichita, Case No. 03 CV 2793. The District Court issued an order remanding the matter to the City Council to clarify the facts upon which Finding #10 is based.

Additional findings of fact have been prepared based upon the records of this matter to support City. 10 stated as follows:

“10. Upon review of the total record, we find that the relative gain to the public health, safety and welfare by a denial of this application as compared to the loss in value or the hardship imposed upon the

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 431

applicant, requires a denial of the application. The applicant has other less detrimental alternatives it can pursue to enhance its wireless services in this area.” (Record-200005)

Upon review of the Records and the Court Order of July 22, 2004, in 03 CV 2793, the City Council of the City of Wichita finds as follows:

1. All of the Council Findings nos. 1 –10 of June 17, 2003, are reaffirmed and incorporated herein by reference. (R-200003 – 200005)
2. Facts relating to a gain to the public health, safety and welfare of the community from a denial of the application include the following:

A. Impact of lighting. This request for a conditional use was brought to the City Council for decision, not only because of appeals from the MAPC action but because the MAPC departed from the Supplementary Use Regulations by allowing the lighting of the flag at night. Professional staff recommended that the flag not be lighted at night to prevent the trespass of light onto surrounding properties (R-200030). The Court Order (no. 9) suggests that the applicants have subsequently expressed a willingness to waive its request for lighting of the flag. Although not incorporated into the MAPC recommendation, the applicants offered at one point to light “only the flag” and further, “if that was the only issue that remains” to “concede the lighting issue and take the Flag down during night hours.” (R-200042). Lighting of the flag is not the only issue.

In considering the “public welfare” of the community, the visual impact of the proposed tower is an important factor. This impact exists whether or not the flag is lighted. As further explained in Council Findings no. 2 and 8, the visual impact of the proposed tower is significant. Staff found that there would be a negative visual impact of such a tall structure in this area (R-100045). The record is replete with concerns over the visual impact and clutter of the stealth tower. The lighting of the flag would only make a bad situation worse and increase the detrimental effect (Finding no. 8; e.g., R-200018). Further, whether the flag is lighted or unlighted, the resulting treatment of the flag is a matter of serious concern.

B. Treatment of Flag. Upon the May 20, 2003, remand by the City Council for more information on the treatment of the proposed flag (R-100003), Staff addressed the matter as follows:

“Displaying the flag only during the day will require that the applicant raise the flag each morning and lower the flag each evening in accordance with the patriotic customs. Citizens have expressed concern that the applicant will not fulfill this requirement because the size of the flag will require more staff to raise and lower the flag in accordance with the patriotic custom than the applicant will be willing to provide. The citizen’s concern is that the result will be that the stealth flagpole will then be only a pole with no flag...” (R-200030)

While the City Council recognizes that it cannot enforce the U.S. Flag Code (U.S.C. Title 36, Chapter 10), Congress has found that the Code is a “codification of existing rules and customs pertaining to the display and use of the flag of the United States of America.” (§ 173) It consists of “patriotic customs and observances.” Respect for and proper treatment of the U.S. Flag is a matter of interest to the Council and to the community. It is part of the consideration of the “public welfare.”

Disrespect for the flag would be obvious in any of the following scenarios arising out of §§ 174-175:

- § If the flag were left up at night without being illuminated.
- § If the flag were displayed on days when the weather is inclement.
- § If the flag were not hoisted briskly and lowered ceremoniously.
- § If the flag were not flown at half-staff upon the death of principal figures of the nation and state.
- § If the flag were allowed to touch the ground.
- § If the flag were allowed to be flown in a condition that it is no longer a fitting emblem for display.

It has been demonstrated that a flagpole of this size would require a very large flag by flag display standards. (See “Our Flag,” S. Doc. 105-013, 105th Congress, 1st Session (1998), p. 21 [recommended 20 x 30 ft. flag for 125 ft. flagpole]; see also R-200055 [40 x 60 ft.]; information suggested to the Court

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 432

by Intervener City of Eastborough [30 x 50 ft for 100 ft. flagpole].) Even the smallest recommended flag for this large flagpole is going to be expensive and require numerous people to handle it properly. If the applicants were allowed to place a small (“normal size”) flag on the flagpole, lighted or unlighted, the disproportionate size would defeat the purpose of allowing a disguised stealth tower.

If the flag were unlighted, it would need to be raised and lowered every day. Common sense suggests that applicant could not reasonably provide the manpower, time, and resources necessary to handle such a large flag on a regular basis. Further, in the Kansas wind, the large flag will be very vulnerable to damage.

The Council finds that disrespect for the flag in some or all of the above manners is possible and even likely given the size of the proposed flagpole and its proposed use. Improper treatment of the flag defeats the purpose of using a disguised flagpole.

The proper treatment of the American flag was a serious matter, as expressed by Staff, many citizens, and this Council. At this location the flag will be a very visible symbol to the neighbors as well as to the members of the community and visitors traveling along Kellogg. It is important for the image of the community at-large as well as the feelings and sensibilities of its citizens that the American flag be respected.

C. Aesthetic considerations are an integral part of the “public welfare.” The Council has set forth its findings on aesthetic considerations and visual impact of the flagpole and flag and beautification considerations for the neighborhood and community in several of the previous findings. The record is ample in support of the facts relating to these findings. .

D. Wireless Plan requirements are also under the police powers of the City and an important part of the public health, safety, and welfare of the community. The Council has already set forth its findings relative to the failures of the application to conform to the requirements of the Wireless Plan (Council Findings no. 3, 4, 5). These failures go beyond just simple concern over aesthetic considerations and visual impact. These matters include failure to meet the guidelines for use of existing buildings or structures and co-location opportunities. (See R-200011-12, 16-17, 60) As a conditional use, the application requires addition scrutiny and the applicants must convince the City Council that it either meets the Plan guidelines or that it is entitled to exemption from those guidelines. The applicants have failed in the endeavor.

3. Facts relating to the loss in value or the hardship imposed upon the applicant include the following:

A. Applicants’ desire for the tower. The applicants’ interest in this site is well documented by their correspondence to Council members and presentations to MAPC. It can be assumed from the comments received, that the applicants have made a monetary investment in the site and expect future revenues if allowed to use the site for a tower. A denial will not deny the property owner all value, however, because the site remains zoned “LC” Limited Commercial and has been and continue to be developed with commercial uses (R-200073).

B. Availability of alternative sites. The Council recognizes the need for wireless facilities and the coverage they provide to the community. The Wireless Plan was adopted to allow such facilities and give guidance for the appropriate consideration of the recognized needs of the industry. An important consideration is whether there are alternative sites available for wireless facilities. Applicants have indicated that this site is “a location that the carrier has researched and approved” (R-200026). The record is conflicting as to whether or not certain other locations or existing buildings are suitable for a wireless facility (see summary at R-200028 – 30, 20070). The Council finds from these facts that this location is not essential to the ability of the wireless industry to provide complete coverage to the community and this area.

As a significant example of the availability of alternative sites, the nearby VA location was discussed throughout the record. The applicants note that the VA property was a primary candidate for its carrier in this area (R-200032). It is the opinion of Planning staff that the VA property is “a better location for the proposed stealth flagpole than the Gump property” (R- 200029). The VA has filed an application

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 433

for a conditional use to allow the placement of a wireless facility on its property (CON2003-00043). In the application, the VA states that the facility would supply, not only its own wireless needs, but be able to handle the co-location of multiple carriers. Whether or not the applicants' carrier(s) would not want to use the VA property, the issue for the Council in balancing the needs is whether or not there is an alternative to the applicants' proposed site to make wireless signals available.

C. Availability of alternative configurations of towers. Staff holds the opinion that multiple shorter towers could meet the applicants' communications needs (R-200029). The applicants have set out concerns of the practicality and cost of replacing one tall tower with a different configuration of multiple shorter towers (R-200033). The Council must balance these considerations.

4. Balance of the public interest to the applicants' hardship. This is a case with many conflicting facts and strong opinions, as given to the Council in the Records. The Council is required to balance the benefit or harm to the community as well as consider the hardship and loss of value to the applicants. While the applicants desire to develop the site, and may even receive more revenue from the site from its use as a wireless facility, applicants do not have that use by right. Council is required to balance the request for the application with the impact of allowing such a use. There are alternative sites and configurations available to provide wireless service in this area. Given the strong weight of the facts showing the detrimental impact on the general health, safety and welfare of the community, the Council finds that this Golden factor weighs for the denial of the application.

The City Council action complies with the order of the Court.

Gary Rebenstorf

Director of Law stated that since this is an Item that involves this type of litigation, it is not an Item for a public hearing it is a matter for the City Council to respond to the order of the court.

Motion--  
--carried

Schlapp moved that, based on the review of the records of this matter and the court order of July 22, 2004, the additional findings be adopted. Motion carried 6 to 0, (Mayans absent).

## NEW BUSINESS

### CONDEMNATIONS

### REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES. (DISTRICT III)

Kurt Schroeder

Office of Central Inspection reviewed the Item.

Agenda Report 04-0908

On August 3, 2004 a report was submitted with respect to the dangerous and unsafe conditions on the property below. The Council adopted a resolution providing for a public hearing to be held on this condemnation action at 9:30 a.m. or as soon thereafter, on September 14, 2004.

On July 12, 2004, the Board of Code Standards and Appeals (BCSA) held a hearing on the following property:

Property Address

Council District

a. 2869 South Davidson

III

Pursuant to State Statute, the Resolution was duly published twice on August 5, 2004, and August 12, each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

Motion--  
--carried

Lambke moved that a 60 day extension be granted and at the end of 60 days that there be no more extensions. Motion carried 6 to 0, (Mayans absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 434

## RESOLUTION NO. 04- 516

Resolution finding that the structure described as: Lot 19, Block B, Planeview Subdivision No. 2, Wichita, Sedgwick County, Kansas, commonly known as 2869 South Davidson, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Brewer moved that the Resolution be adopted. Motion carried 7 to 0.

**ZTM, INC.**

### **AUTHORIZE A SECOND FIVE-YEAR TAX EXEMPTION, ZTM, INC. (DISTRICT III)**

Allen Bell

Director of Economic Development reviewed the Item.

Agenda Report No. 04-0909

On March 21, 2000, City Council approved an Economic Development Tax Exemption (EDX) for ZTM, Inc. (ZTM) to assist with expansion of the companies manufacturing operations. Under the City Business Incentive Policy, ZTM qualified for a 92 percent tax exemption for real and personal property for a five plus five-year period. On December 31, 2004, the initial five-year period for a tax exemption will expire. ZTM requests City Council extend the tax exemption to include the second five-years on the ad valorem tax exemption.

As a result of the tax exemption, ZTM committed to undertake an expansion consisting of the 13,917 square feet addition to their manufacturing facility, purchase of machinery and equipment, and creation of 10 new jobs within five years. A measure of initial project commitments and outcomes are as follows:

1999 Commitment	December 31, 2004
· Construct new manufacturing space:	Completed 13,917 s.f. facility by December, 2004
· Purchase Manufacturing Equipment	Purchased equipment worth over 1,500,000
· Create 10 new jobs in five years	Created 15 new jobs

Staff conducted a site-monitoring visit on May 22, 2003. ZTM exceeded its projection by creating 15 new permanent jobs. ZTM increased sales by more 37% since 1999, and diversified its customer base. ZTM's products are ultimately exported all over the United States and at least 80% Internationally.

A second five-year exemption of taxes of project property will result in forgone tax revenues of \$23,380 for City, \$22,217 for Sedgwick County and \$37,673 for USD 259.

The second five-year tax exemption on real and personal property in conjunction with the original expansion project is at the discretion of the Council.

Vice-Mayor Brewer

Vice-Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Motion--  
--carried

Lambke moved that the extension of the property tax exemption for ZTM for a second five-year period be approved. Motion carried 6 to 0, (Mayans absent).

**LOI CALVARY  
TOWERS**

### **REQUEST FOR LETTER OF INTENT FOR TAX-EXEMPT INDUSTRIAL REVENUE BONDS AND RESOLUTION OF SUPPORT FOR LOW INCOME HOUSING, CALVARY TOWERS APARTMENTS. (DISTRICT I)**

Allen Bell

Director of Economic Development reviewed the Item.

Agenda Report No. 04-0910

Mennonite Housing Rehabilitation Services, Inc. ("MHRS"), is requesting City Council approval of a six-month Letter of Intent for the issuance of Industrial Revenue Bonds in an amount not-to-exceed \$3,800,000. The proceeds of the proposed bonds will be used to finance a portion of the costs of



# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 435

acquiring, constructing and equipping a senior residence facility located at 2600 North Grove in northeast Wichita. MHRS also plans to utilize Low Income Housing Tax Credits as a component of the financing package and therefore requests adoption of a Resolution of Support pursuant to the City's Housing Tax Credit Policy.

Calvary Towers is located at 2600 N. Grove. The project offers 54 Single-Room Occupancy units and six one-bedroom units. Calvary Towers was constructed in the late 1960's, with financing provided by the U.S. Department of Housing and Urban Development (HUD) under Section 221 (d)(3) of the National Housing Act. Monthly housing assistance payments are made available to tenants occupying the apartments.

The project recently became the subject of a foreclosure case initiated by HUD, primarily due to the resulting from insufficient tenant occupancy. Currently, only 50% of the units are occupied. The low rate of occupancy can be attributed to functional obsolescence, the lack of suitable amenities, and the availability of other living options for senior citizens. The foreclosure action has been suspended, pending the outcome of this project proposal.

MHRS proposes to redevelop the complex in order to offer 54 one-bedroom units and six two-bedroom units. A total of 30 one-bedroom units would be offered within the newly remodeled existing building, along with six two-bedroom units. The remaining 24 one-bedroom units would be available in a new building to be constructed on the site.

The City's adopted tax credit policy requires a set-aside of 20% of the units for market rate tenants. However, there is an exception to this policy in the event that the project is designed to serve special needs populations. This project is designed to serve senior citizens, age 62 and older, and thus, MHRS has requested waiver of the 20% market rate requirement.

An estimated analysis of the sources and uses of project funds is:

## SOURCES OF FUNDS

Tax Exempt Bonds	\$2,047,564
Tax Credit Equity	2,534,849
KHRC Loan	2,400,000
FHLB AHP Grant	210,000
General Partner Equity	100
Total Sources of Funds	\$7,192,513

## USES OF FUNDS

Construction Costs	\$5,116,703
Architects and Engineers	275,500
Construction period interest	285,600
Fees and Charges	285,700
Developer's Fee	795,820
Reserve Deposits	215,920
Costs of Issuance	217,270
Total Uses of Funds	\$7,192,513

The firm of Hinkle Elkouri Law Firm, L.L.C., will serve as bond counsel in the transaction. The Company plans to privately place the bonds with a financial institution with which it has an relationship. MHRS, agrees to comply with the Standard Conditions contained in the City's IRB Policy.

MHRS agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. In order to maximize the amount of tax credits available to the project, MHRS proposes to use a portion of the \$3.8 million IRBs to temporarily finance part of the

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 436

new construction cost. A "Series B" portion in the amount of \$1,545,000 will therefore be repaid upon completion of construction, using the proceeds of the sale of tax credits.

The City's Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds.

The project has been reviewed in accordance with the City's Low-Income Housing Tax Credit Policy, and has received recommendation for adoption of the resolution of support from the DAB, the HAB and the DCC, with waiver of the 20% market-rate unit requirement. The District I Advisory Board approved a recommendation for adoption of the Resolution of Support by an 8 - 0 vote. Further, in accordance with City Council Resolution No. R-95-479, MHRS has notified property owners within 200 feet of the proposed project, in order to allow them the opportunity to provide comment on the project. City Council Resolution No. R-95-479 also requires that the City Council hold a public hearing. Upon closing the public hearing, the Council may vote on a motion to approve the Resolution of Support for the application of low-income housing tax credits. The Resolution document has been approved as to form by the City's Law Department.

Vice-Mayor Brewer Vice-Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Allen Bell Economic Development stated that this Item was put on the agenda today and that Item 50 was initiated by the Housing Department and is the same matter as Item 45.

Motion-- Brewer moved that the public hearing be closed; the Resolution of Support for the MHRS application for Low-Income Housing Tax Credits with waiver of the 20% market-rate requirement be adopted and a Letter of Intent for Industrial Revenue Bonds in an amount not-to-exceed \$3,800,000, subject to the Standard Letter of Intent Conditions be approved. Motion carried 6 to 0, (Mayans absent).  
--carried

## RESOLUTION NO. 04-515

A Resolution establishing support of the development of affordable housing in the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans absent).

## **BUILDING CODE ORDINANCE CHANGE TO THE CITY OF WICHITA RESIDENTIAL BUILDING CODE (TITLE 18.06).**

Kurt Schroeder Office of Central Inspection reviewed the Item.

Agenda Report No. 04-0911

The City of Wichita's Residential Building Code (Title 18.06) incorporates the 2000 International Residential Code developed by the International Code Council. This national model code is amended, as necessary, to meet local needs and conditions.

Over the past 6-8 months, The Office of Central Inspection, the Sedgwick County Code Enforcement Office and the local building industry have researched and developed a proposed residential building code amendment relating to certain foundation and exterior/interior wall construction technology being used in residential home construction around the country. This relatively new technology/product is most commonly referred to as an insulated concrete form (ICF) system, and includes "foam plastics" and/or "expandable polystyrene" in the ICF manufacture and fabrication. Many "foam plastics" or similar plastic products are cause for concern as related to burn characteristics such as toxicity, flame spread and combustion, and are generally required to be covered with an additional thermal barrier (such as sheet rock) when used/installed.

The proposed code amendment would allow the use/installation of such ICF wall systems in "unfinished" areas (primarily, unfinished basement or garage areas) without requiring the installation of an additional thermal barrier/covering if certain maximum flame spread, combustion and toxicity product characteristics are documented. Current ICF research and testing clearly documents that the

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 437

level of toxicity, flame spread and combustion for this product is significantly less than the levels for standard wood stud framing. Exposed wood-stud framing in unfinished basement or garage areas has long been allowed under the residential codes.

After reviewing the ICF product and the proposed amendment at its July and August 2004 meetings, the Board of Code Standards and Appeals recommended that the City Council approve the ordinance amendment.

Adoption of this amendment will provide for the safe installation of ICF or similar products in unfinished areas without a thermal barrier or final wall finish. The proposed City Code amendment is nearly identical to the amendment recently adopted by Sedgwick County into its residential building code, and has the support of both the City and County building boards, staff and the residential construction industry.

The proposed amendment will have no financial impact on the City and will provide some cost savings to the residential construction industry.

Vice-Mayor Brewer Vice-Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Motion-- Brewer moved that the Ordinance amending Title 18.06 of the Code of the City of Wichita be placed  
--carried on first reading. Motion carried 6 to 0, (Mayans absent).

## ORDINANCE

An Ordinance creating new section 18.06.245 of the Code of the City of Wichita, Kansas, and pertaining to the Residential Building Codes of the City of Wichita, Kansas, introduced and under the rules laid over.

## **MECHANICAL CODE ORDINANCE CHANGE TO THE CITY OF WICHITA MECHANICAL CODE (TITLE 22).**

Kurt Schroeder Office of Central Inspection reviewed the Item.

Agenda Report No. 04-0912

The City of Wichita's Mechanical Code (Title 22) incorporates the 2000 International Mechanical Code developed by the International Code Council. This national model code is amended, as necessary, to meet local needs and conditions.

Over the past two years, the Board of Appeals of Air Conditioning, Refrigeration, Warm Air Heating and Boilers has researched, reviewed and considered approval of alternate national testing agencies for local mechanical trade certifications. At the request of the Kansas Cooling Contractors Association (KCCA) and other concerned mechanical contractors, the Board of Appeals of Air Conditioning, Refrigeration, Warm Air Heating and Boilers, has voted unanimously to approve an amendment to Title 22 that would allow testing from more than one national testing agency.

The specific proposed change is as follows:

Section 22.04.200: This code section is amended to allow for certification testing of Mechanical Journeyman and/or Master Mechanics through the International Code Council testing agency and/or other similar testing agencies that may be authorized/approved in the future by Kansas statute. These testing sources are in addition to the current "Block" exams, administered by Experior Assessments.

Adoption of this amendment will provide mechanical tradespersons and contractors several testing alternatives. It will also be consistent with recent code amendments adopted by Sedgwick County, allowing test reciprocity between Wichita and Sedgwick County.

The proposed amendment will have no financial impact on the City or the mechanical trades industry.

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 438

Vice-Mayor Brewer Vice-Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Motion-- Brewer moved that the Ordinance be placed on first reading amending Title 22 of the Code of the City of Wichita. Motion carried 6 to 0, (Mayans absent).  
--carried

## ORDINANCE

An Ordinance amending Section 22.04.200 of the Code of the City of Wichita, Kansas, and repealing the original of said amended Section, both pertaining to the Air Conditioning, Refrigeration and Warm Air Heating Codes of the City of Wichita, Kansas, introduced and under the rules laid over.

## HUD

### HUD CONSOLIDATED PLAN ANNUAL PERFORMANCE AND EVALUATION REPORT.

Marty Miller Finance Department reviewed the Item.

Agenda Report No. 04-0913

The City is required to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) by the HUD Consolidated Plan. The CAPER includes activities of the Community Development Block Grant (CDBG), the HOME Investment Partnerships (HOME) and the Emergency Shelter Grant (ESG) programs covering the period from July 1, 2003 through June 30, 2004.

During the reporting period, residents of the City of Wichita received direct benefits from CDBG capital improvements, housing and public services. The CDBG program provided services to more than 83,196 (duplicated) low and moderate-income persons, constructed 54,490 square yards of concrete for streets, sidewalks and driveway improvements, held ten neighborhood clean-ups and rehabilitated 348 housing units. The HOME program assisted 59 households to secure affordable housing and 14 households received rehabilitation assistance through the Deferred Loan Program. The Emergency Shelter Grant provided services to 6,209 persons (cumulative) by providing short-term shelter, case management and other services to homeless persons and victims of domestic abuse.

The total expenditures for the 2003/2004 fiscal year were \$8,711,588. The expenditures consist of \$4,670,112 for the CDBG program, \$3,916,022 for HOME Investment Partnerships program and ESG expenses were \$125,454.

The City is required to provide an opportunity for citizens to review and comment on the CAPER prior to submitting the CAPER to the U.S. Department of Housing and Urban Development (HUD). On August 26, 2004, the City published a notice in the Kansas State Globe and on August 28, 2004 in the Wichita Eagle accepting public comments until September 13, 2004. The CAPER was made available to the public through the Neighborhood City Halls, Finance Department, Housing Services Department, Planning Department, City Council Office, City Manager's Office, City of Wichita website and all branches of the Wichita Public Library.

Vice-Mayor Brewer Vice-Mayor Brewer inquired whether anyone wished be heard and no one appeared.

Motion-- Brewer moved that the HUD Consolidated Annual Performance and Evaluation Report be approved; the Public Hearing be closed and submission to the U.S. Department of Housing and Urban Development authorized. Motion carried 6 to 0, (Mayans absent).  
--carried

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 439

ITS

## INTELLIGENT TRANSPORTATION SYSTEM (ITS) AGREEMENT BETWEEN THE CITY OF WICHITA, SEDGWICK COUNTY AND THE KANSAS DEPARTMENT OF TRANSPORTATION.

John Schlegel

Planning Director reviewed the Item.

Agenda Report No. 04-0914

The City of Wichita, Sedgwick County, and the Kansas Department of Transportation (KDOT) signed a Memorandum of Agreement (MOU) in January 2002 to share the costs and responsibilities for the design and implementation of an Intelligent Transportation System for the Wichita-Sedgwick County Area. The MOU originally identified a total of \$6,250,000, comprised of \$3,750,000 from KDOT, \$1,250,000 from the City, and \$1,250,000 from the County, for planning, design and implementation of several ITS projects. Since then, the U.S. Congress has earmarked additional ITS funds for the Wichita area over the last three years, and this three-party supplemental agreement is to share an additional \$5,742,782 of federal funds in a way that is most beneficial to the area.

The 2002 MOU to share \$6,250,000 provided the initial funds to get started on ITS projects. A Needs Assessment Study has been completed for Automatic Vehicle Location (AVL). Several other ITS projects using these funds are either programmed or slated for approval by the governing body, including: 1) Equipment and communications devices to track and dispatch emergency service vehicles; 2) A communication link between Sedgwick County's Emergency Management Center and the City of Wichita; 3) Communication equipment within a Traffic Operations Center, co-located with the Emergency Management Center, and linked to traffic surveillance devices and highway information systems; and 3) Design of an integrated, centrally-controlled traffic signal system integrated with a highway diversion management plan.

Several ITS projects are not fully funded and rely on federal and other funding sources. Federal congressional earmarks in the last three years combined provide an additional \$5,742,782 to continue the planning, design and implementation of the ITS projects. An additional \$7 million may also be available with the passage of the next transportation reauthorization bill, decreasing Wichita and Sedgwick County's reliance on local sources of funding.

Federal congressional earmarks awarded to date for ITS integration and deployment in the Wichita-Sedgwick County Area are:

City of Wichita	FY 2002		\$992,782
Metropolitan Planning Area	FY 2003		\$4,000,000
City of Wichita, Transit		FY 2004	\$750,000
Total Federal Earmarks over Three Years			\$5,742,782

ITS Stakeholders (Technical Committee members) from Wichita, Sedgwick County and KDOT have jointly proposed the four projects listed below that would benefit significantly from sharing these federal earmarks. The MAPD has also coordinated discussions with the ITS Policy Committee (senior management staff from City, County, and KDOT) to address system integration and other federal planning and funding requirements.

Four ITS projects are proposed for the use of these federal funds:

1. Integration of communication systems including Automatic Vehicle Location / Mobile Data Terminal (AVL/MDT) between Wichita and Sedgwick County emergency service providers, Traffic Operations Center (TOC) and Advanced Transportation Management System (ATMS), using \$992,782 of the federal FY 2002 earmark;
2. Design and implementation of the Advanced Transportation Management System (ATMS) and Traffic Operations Center (TOC), using \$2,000,000 of federal FY 2003 earmark;
3. Design of Traffic Signal System Upgrade, functionally integrated with the Advanced Transportation Management System (ATMS), using \$1,000,000 of the federal FY 2003 earmark;
4. Integration of transit with several non - public safety ITS deployments. Potential applications may include Computer-Aided Vehicle location system, an Automated Announcement program (required

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 440

by the ADA), a Bus Operations software package or a Customer Service Information program. Wichita Transit is also considering the establishment of an interoperable network offering wireless capability which shall provide the communication and data backbone upon which future regional ITS systems may apply themselves for transfer of their specific information. These projects will use \$1,000,000 of the federal FY 2003 earmark, and \$750,000 of the federal FY 2004 earmark.

The three-party MOU in 2002 sets aside \$6,250,000 for ITS projects, of which Wichita and Sedgwick County's contribution is \$1,250,000, already identified in each of the respective Capital Improvement Programs. The FY 2002 earmark to the City of Wichita is for integration of ITS with other jurisdictions, and requires a 50 percent funding match that will be derived from the Wichita CIP and Sedgwick County's 9-1-1 funds. The FY 2003 earmark to the metropolitan planning area is from a flexible funding program with no requirement for matching funds. The FY 2004 earmark is for integrating Wichita Transit's ITS with other communication systems; it also requires a 50 percent local match, and work Items under the original three-party MOU will provide the local matching share of the project. No additional local funds are required to secure and use these federal earmarks.

Vice-Mayor Brewer Vice-Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Motion--carried Brewer moved that the Agreement be approved. Motion carried 6 to 0, (Mayans absent).

(Item 50)

**CALVARY TOWERS**

**RESOLUTION OF SUPPORT FOR LOW INCOME HOUSING TAX CREDIT APPLICATION; CALVARY TOWERS SENIOR APARTMENTS. (DISTRICT I)**

This Item was a duplicate of Item 45 and was pulled from the agenda.

**51<sup>ST</sup> ST. NORTH**

**PETITION TO PAVE 51<sup>ST</sup> STREET NORTH, FROM MERIDIAN TO APPROXIMATELY 600 FEET EAST OF MERIDIAN. (DISTRICT VI)**

Chris Carrier Acting Director of Public Works reviewed the Item.

Agenda Report No. 04-0916

The signatures on the Petition represent 5 of 6 (83.33%) resident owners and 36.71% of the improvement district area. District VI Advisory Board sponsored an August 2, 2004, neighborhood meeting on the project. The Board voted 7-0 to recommend approval of the project.

The project will provide paved access to a partially developed residential area.

The estimated project cost is \$58,000, with the total assessed to the improvement district. The method of assessment is the square foot basis. The estimated assessment to individual properties is \$00.15 per square foot of property.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Vice-Mayor Brewer Vice-Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Motion--  
--carried Brewer moved that the Petition be approved and the Resolution adopted. Motion carried 6 to 0, (Mayans absent).

## RESOLUTION NO. 04-514

Resolution of findings of advisability and Resolution authorizing improving 51st Street North from the east line of Meridian to the east line of Hull Addition, 472-84099 (east of Meridian), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, (Mayans absent)

# CITY COUNCIL PROCEEDINGS

JOURNAL 181

SEPTEMBER 14, 2004

PAGE 441

## **GROVE LEFT TURN    GROVE LEFT TURN LANE AT FIRST STREET. (DISTRICT I)**

Chris Carrier

Acting Director of Public Works reviewed the Item.

Agenda Report No. 04-0917

On May 5, 2003, representatives of the Uptown Neighborhood Association presented a proposal to District I Advisory Board to construct a left turn lane on Grove at the north approach to 1st Street. The Board voted 9-0 to support the request. The project has been included in the 2004 Capital Improvement Program (CIP No. 200414). On July 12, 2004, the design concept was presented to District I Advisory Board. The Board voted 8-0 to recommend approval of the project.

Currently, southbound left turn movements are very difficult because the existing median provides no auxiliary lane and limited turning radii. This project will solve the problem by constructing a left turn bay with appropriate radii.

The project budget is \$40,000. The funding source is General Obligation Bonds.

Vice-Mayor Brewer

Vice-Mayor Brewer inquired whether anyone wished to be heard and no one appeared.

Motion--  
--carried

Brewer moved that the project be approved and the Ordinance placed on First Reading. Motion carried 6 to 0, (Mayans absent).

### ORDINANCE

An Ordinance declaring the intersection of First Street at Groove (472-84095) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## **RECESS**

--carried

Vice-Mayor Brewer moved that the City Council recess into Executive Session at 11:10 a.m. to consider: Consultation with legal counsel on matters privileged in the attorney-client relationship relating to: legal advice, matters relating to employer-employee negotiations, and matters relating to security of public bodies or agencies, public buildings or facilities or information systems and that the Council return from Executive Session no earlier than 12:30 p.m. and reconvene in the City Council Chambers. Motion carried 6 to 0, (Mayans absent).

Motion--  
--carried

Brewer moved to extend the Executive Session for 15 minutes until 12:50 p.m. Motion carried 5 to 0, (Lambke not present and Mayans absent).

## **RECONVENE**

The City Council reconvened in the City Council Chambers at 12:50 p.m. and Vice-Mayor Brewer announced that no action was taken.

Motion--carried

Brewer moved to adjourn the Executive Session. Motion carried 6 to 0, (Mayans absent).

Motion--carried

Brewer moved to adjourn the Regular Meeting. Motion carried 6 to 0, (Mayans absent).

Adjournment

The meeting adjourned at 12:52 p.m.

Karen Sublett  
City Clerk